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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM224; Special Conditions No. 25–206–SC]

Special Conditions: Boeing Model 737–79U IGW (BBJ, S/N: 29441) Airplane; Certification of Cooktops

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 737–79U IGW airplane (BBJ Serial Number 29441). This airplane, as modified by Schwartz Engineering Company, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of an electrically heated surface, called a cooktop. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for addressing the potential hazards that may be introduced by cooktops. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 28, 2002. Comments must be received on or before August 9, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM224, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM224. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2195; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background Information

On June 1, 2001, Schwartz Engineering Company, 116 Kestrel Drive, Spring Branch, Texas 78070, applied for a supplemental type certificate (STC) to modify a Boeing Model 737–79U IGW airplane (BBJ serial number 29441). The Model 737–79U IGW is one of the Boeing Business Jet (BBJ) variants of Model 737 airplanes. It is a large transport category airplane powered by two CFM 56 engines, with a maximum takeoff weight of 171,000 pounds. The modified 737–79U IGW airplane (BBJ serial number 29441) operates with a 2-pilot crew, up to 2 flight attendants, and can hold up to 11 passengers.

The modification incorporates the installation of an electrically heated surface, called a cooktop. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. These potential hazards to the airplane and its occupants must be satisfactorily addressed. Since existing airworthiness regulations do not contain safety standards addressing cooktops, special conditions are therefore issued.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Schwartz Engineering Company must show that the Boeing Model 737–79U IGW airplane (BBJ serial number 29441), as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate Data Sheet No. A16WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate Data Sheet No. A16WE are part 25, as amended by Amendments 25–1 through 25–77, with reversions to earlier Amendments, voluntary compliance to later Amendments, special conditions, equivalent safety findings, and exemptions listed in the type certificate data sheet.

If the Administrator finds that the applicable airworthiness regulations (that is, part 25 as amended) do not

contain adequate or appropriate safety standards for the Boeing Model 737–79U IGW airplane (BBJ serial number 29441) modified by Schwartz Engineering Company because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, this Boeing Model 737–79U IGW airplane (BBJ serial number 29441) must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Schwartz Engineering Company apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the modification of the Boeing Model 737–79U IGW airplane (BBJ serial number 29441) will include installation of a cooktop in the passenger cabin. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards to protect the airplane and its occupants from these potential hazards. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

Currently, ovens are the prevailing means of heating food on airplanes. Ovens are characterized by an enclosure that contains both the heat source and the food being heated. The hazards represented by ovens are thus inherently limited, and are well understood through years of service experience. Cooktops, on the other hand, are characterized by exposed heat sources and the presence of relatively unrestrained hot cookware and heated food, which may represent unprecedented hazards to both occupants and the airplane.

Cooktops could have serious passenger and airplane safety implications if appropriate requirements are not established for their installation and use. These special conditions apply to cooktops with electrically powered burners. The use of an open flame cooktop (for example natural gas) is beyond the scope of these special conditions and would require separate rulemaking action. The requirements identified in these special conditions are in addition to those considerations identified in Advisory Circular (AC) 25–10, ''Guidance for Installation of Miscellaneous Non-required Electrical Equipment,'' and those in AC 25–17, ''Transport Airplane Cabin Interiors Crashworthiness Handbook.'' The intent of these special conditions is to provide a level of safety that is consistent with that on similar airplanes without cooktops.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 737–79U IGW airplane (BBJ serial number 29441) modified by Schwartz Engineering Company. Should Schwartz Engineering Company apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 737–79U IGW airplane (BBJ serial number 29441) modified by Schwartz Engineering Company. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Boeing Model 737–79U IGW airplane (BBJ serial number 29441) modified by Schwartz Engineering Company:

Cooktop Installations With Electrically-Powered Burners

1. Means, such as conspicuous burner-on indicators, physical barriers, or handholds, must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

2. Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents (soups or sauces, for example) from the effects of flight loads and turbulence.

(a) Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop.

(b) Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable.

(c) Placarding must be installed which prohibits the use of cookware that cannot be accommodated by the restraint system.

3. Placarding must be installed which prohibits the use of cooktops (that is, power on any burner) during taxi, takeoff, and landing (TTL).

4. Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop caused by materials or grease inadvertently coming in contact with the burners.

Note: Two acceptable means of complying with this requirement are as follows:

• Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended (this would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered). In addition, a fire detector must be installed in the vicinity of the cooktop, which provides an audible warning in the passenger cabin;

and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. A fire on or around the cooktop must not block access to the extinguisher. One of the fire extinguishers required by § 25.851 may be used to satisfy this requirement if the total complement of extinguishers can be evenly distributed throughout the cabin. If this is not possible, then the extinguisher in the galley area would be additional.

or

• An automatic, thermally-activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

5. The surfaces of the galley surrounding the cooktop, which would be exposed to a fire on the cooktop surface or in cookware on the cooktop, must be constructed of materials that comply with the flammability requirements of Part III of Appendix F of part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

6. The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils. These procedures and time intervals must be included in the Instructions for Continued Airworthiness (ICA). The ventilation system ducting must be protected by a flame arrestor.

Note: The applicant may find additional useful information in ''Air Conditioning Systems for Subsonic Airplanes,'' Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, dated August 1, 1991.

7. Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

8. Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

9. A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

10. A readily deployable cover must be provided to cover the cooktop during taxi, takeoff, and landing (TT&L) operation. The deployment of the cover must automatically shut off power to the cooktop.

Issued in Renton, Washington, on June 28, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17375 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–46–AD; Amendment 39–12801; AD 2002–14–01]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS332L and AS332L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (ECF) helicopters that requires adding a supplement to the Limitations section of the applicable Rotorcraft Flight Manual (RFM) for helicopters with ''SEFA'' skis installed. This amendment is prompted by the need to limit the taxi and Vne speed of those helicopters with skis. The actions specified by this AD are intended to prevent structural failure of a ski and subsequent loss of control of the helicopter.

DATES: Effective August 14, 2002.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for ECF Model AS332L and AS332L1 helicopters was published in the **Federal Register** on February 6, 2002 (67 FR 5526). That action proposed to require adding the limitations contained in SUP.10.14, Ski Installation, to the Limitations section of the RFM, requiring certain speed limitations for helicopters with skis installed.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model AS332L and AS332L1 helicopters equipped with ''SEFA'' skis. ECF issued Supplement, SUP.10.14, Ski Installation, Normal Revision 2, Issue 2, dated June 2001 to the applicable RFM. The DGAC classified these RFM supplements as mandatory and issued AD No. 2001–316–079(A), dated July 25, 2001. The DGAC advises incorporating the Ski Installation Supplement into the applicable RFM before the next flight and complying with the Vne and the maximum taxiing speed limitations to ensure the continued airworthiness of these helicopters in France.

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

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

The FAA estimates that 3 helicopters of U.S. registry will be affected by this AD, that it will take approximately 10 minutes per helicopter to add the flight manual supplement, 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 $30.

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 at the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

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 a new airworthiness directive to read as follows:

2002–14–01 Eurocopter France: Amendment 39–12801. Docket No. 2001–SW–46–AD.

Applicability: Model AS332L and AS332L1 helicopters, with ''SEFA'' skis installed, certificated in any category.

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

Compliance: Required before further flight, unless accomplished previously.

To prevent structural failure of a ski and subsequent loss of control of the helicopter, accomplish the following:

(a) Before the next flight with skis installed, add the limitations contained in SUP.10.14, Ski Installation, Normal Revision 2, Issue 2, dated June 2001 to the Limitations section of the applicable Rotorcraft Flight Manual.

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

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

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

(d) This amendment becomes effective on August 14, 2002.

Note 3: The subject of this AD is addressed in Direction General De L'Aviation Civile (France) AD 2001–316–079(A), dated July 25, 2001.

Issued in Fort Worth, Texas, on June 27, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–17245 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 02–AGL–01]

Establishment of Class D Airspace; Marquette, MI; Modification of Class E Airspace; Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Marquette, MI, and modifies Class E airspace at Marquette, MI. The opening of a Federal Contract Tower is being planned for the Sawyer International Airport. Class D airspace is required during the hours the control tower is operating. Sawyer International Airport is served by Federal Aviation Regulations Part 121 (14 CFR part 121) air carrier operations. During periods when the control tower is closed, controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment. This action establishes Class D airspace, and modifies Class E airspace for Sawyer International Airport.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 2, 2002, the FAA proposed to amend 14 CFR part 71 to establish Class D and modify Class E airspace at Marquette, MI (67 FR 15502). The proposal was to establish Class D airspace, and modify Class E airspace, to support the operation of a Federal Contract Tower, and to provide a safer operating environment after the tower is closed. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from the surface of the earth in paragraph 6002, 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 D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class D airspace and modifies Class E airspace at Marquette, MI, to support the operation of a Federal Contract Tower, and to provide a safer operating environment after the tower is closed. The areas will be depicted on appropriations aeronautical charts.

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

List of Subjects in 14 CFR Part 72

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854, 24 FR 95665, 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, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 5000 Class D airspace

* * * * *

AGL MI D Marquette, MI [New]

Marquette, Sawyer International Airport, MI
(Lat. 46°21′13″ N., long. 87°23′45″ W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.6-mile radius of the Sawyer International Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continually published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas extending upward from the Surface of the earth.

* * * * *

AGL MI E2 Marquette, MI [Revised]

Marquette, Sawyer International Airport, MI
(Lat. 46°21′13″ N., long. 87°23′45″ W.)

That airspace extending upward from the surface within a 4.6-mile radius of the Sawyer International Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continually published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on June 19, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–17372 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–03]

Modifications of Class E Airspace; Jackson, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Jackson, OH. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 01, and an RNAV SIAP to RWY 19 have been developed for James A. Rhodes Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace for James A. Rhodes Airport.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 2, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Jackson, OH. (67 FR 15503). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Jackson, OH, to accommodate aircraft executing instrument flight procedures into and out of James A. Rhodes Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL OH E5 Jackson, OH [Revised]

Jackson, James A. Rhodes Airport, OH
(Lat. 38°58′53″ N., long. 82°34′41″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the James A. Rhodes Airport.

* * * * *

Issued in Des Plaines, Illinois on June 19, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–17368 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 02–AGL–02]

Modification of Class E Airspace; Tecumseh, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Tecumseh, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13, and an RNAV SIAP to RWY 31 have been developed for Tecumseh Products Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace at Meyers-Divers' Airport by adding a radius of controlled airspace around Tecumseh Products Airport.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 2, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Tecumseh, MI (67 FR 15504) The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceedings by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airpspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, 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 designations listed in this document will be published subsequently in the order.

The Rule

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7300.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Tecumseh, MI [Revised]

Tecumseh, Meyers-Divers' Airport, MI
(Lat. 42°01′30″ N., long. 83°56′21″ W.)
Tecumseh, Tecumseh Products Airport, MI
(Lat. 42°01′06″ N., long. 83°52′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Meyers-Divers' Airport, and within a 6.4-mile radius of the Tecumseh Products Airport, excluding that airspace within the Adrian, Lenanwee County Airport, MI, and the Detroit, MI, Class E Airspace areas.

* * * * *

Issued in Des Plaines, Illinois on June 19, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–17369 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 700, 719, 720, 766

[Docket No. 020417087–2150–02]

RIN 0694–XX21

Industry and Security Programs

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: On April 18, 2002, the Bureau of Export Administration changed its name to the Bureau of Industry and Security, and made conforming changes in its regulations (67 FR 20630, April 26, 2002). Consistent with that change, effective May 17, 2002, the names of the ''Office of Chief Counsel for Export Administration'' and the ''Chief Counsel for Export Administration'' were changed to the ''Office of Chief Counsel for Industry and Security'' and the ''Chief Counsel for Industry and Security,'' respectively. This rule makes appropriate conforming changes in chapter VII of title 15 of the Code of Federal Regulations to reflect these additional name changes.

DATES: This rule is effective as of May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Peter Klason, Office of Chief Counsel for

Industry and Security, at (202) 482–5301.

SUPPLEMENTARY INFORMATION:

Savings Provision

This rule constitutes notice that all references to the Office of Chief Counsel for Export Administration or Chief Counsel for Export Administration in any documents, statements, or other communications, in any form or media, and whether made before, on, or after the effective date of this rule, shall be deemed to be references to the Office of Chief Counsel for Industry and Security or Chief Counsel for Industry and Security, respectively. Any actions undertaken in the name of or on behalf of the Office of Chief Counsel for Export Administration or Chief Counsel for Export Administration, whether taken before, on, or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the Office of Chief Counsel for Industry and Security or the Chief Counsel for Industry and Security, respectively.

Rulemaking Requirements

1. This final rule has been determined to be exempt from review for purposes of Executive Order 12866.

2. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

3. This rule does not contain policies with Federalism implications as the term is defined in 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 rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable.

List of Subjects

15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Part 719

Administrative practice and procedure, Chemicals, Exports, Imports, Penalties, Violations.

15 CFR Part 720

Administrative practice and procedure, Exports, Penalties, Violations.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Foreign trade, Law enforcement, Penalties.

For the reasons set forth in the preamble, 15 CFR chapter VII is amended as set forth below:

PART 700—DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM

1. The authority citation for part 700 continues to read as follows:

Authority: Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061 *et seq.*), Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), and Executive Order 12919, 59 FR 29525, 3 CFR, 1994 Comp., p. 901; Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538, 50 U.S.C. 82, and Executive Order 12742, 56 FR 1079, 3 CFR, 1991 Comp., p. 309; and Executive Order 12656, 53 FR 226, 3 CFR, 1988 Comp., p. 585.

§ 700.72 [Amended]

2. In § 700.72(b) revise ''Chief Counsel for Export Administration'' to read ''Chief Counsel for Industry and Security''.

PART 719—ENFORCEMENT

3. The authority citation for part 719 continues to read as follows:

Authority: 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13128, 64 FR 36703.

4. In § 719.1(b), revise the definition of ''Office of Chief Counsel'' to read as follows:

§ 719.1 Scope and definitions.

* * * * *

(b) * * *

Office of Chief Counsel. The Office of Chief Counsel for Industry and Security, United States Department of Commerce.

* * * * *

§ 719.8 [Amended]

5. In § 719.8(b) revise ''Office of Chief Counsel for Export Administration'' to read ''Office of Chief Counsel for Industry and Security''.

PART 720—DENIAL OF EXPORT PRIVILEGES

6. The authority citation for part 720 continues to read as follows:

Authority: 22 U.S.C. 6701 *et seq.*; E.O. 13128, 64 FR 36703.

§ 720.3 [Amended]

7. In § 720.3(c) revise ''Office of Chief Counsel for Export Administration'' to read ''Office of Chief Counsel for Industry and Security''.

PART 766—ADMINISTRATIVE ENFORCEMENT PROCEEDINGS

8. The authority citation for part 766 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

§ 766.4 [Amended]

9. In § 766.4 revise ''Office of Chief Counsel for Export Administration'' to read ''Office of Chief Counsel for Industry and Security''.

§ 766.5 [Amended]

10. In § 766.5(b) revise ''Chief Counsel for Export Administration'' to read ''Chief Counsel for Industry and Security''.

Dated: June 25, 2002.

Kenneth I. Juster,

Under Secretary for Industry and Security.

[FR Doc. 02–17154 Filed 7–9–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF TRANSPORTATION

33 CFR Part 100

[CGD07–02–087]

RIN 2115–AE46

Special Local Regulations; Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being established for the Beaufort River July 12th Fireworks Display, on the Beaufort River, Beaufort, SC. This rule creates a regulated area around the fireworks display. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 9 p.m. until 10 p.m. on July 12, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD07–02–049 and are available for inspection or copying at Coast Guard Group Charleston, 196 Tradd St., Charleston, SC 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Martinez, Coast Guard Group Charleston at (843) 724–7632.

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, which would incorporate a comment period before a final rule could be issued, would be contrary to public safety interests since immediate action is needed to minimize potential danger to the public from aerial fireworks and because there will be numerous spectator craft in the area.

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

These regulations are required to provide for the safety of life on navigable waters because of the inherent danger associated with the aerial fireworks for the Beaufort Water Festival July 12th Fireworks Display on the Beaufort River, Beaufort, SC. The event sponsor expects approximately 120 spectator craft to observe the show. The fireworks barge will be located in approximate position 32°25.593′ N, 080°40.292′ W (NAD 83). This rule creates a regulated area that will prohibit non-participant persons and vessels from entering the regulated area during the event without the permission of the Coast Guard Patrol Commander.

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 it minimally impacts navigation. The regulated area will only be in effect for one hour, vessels will still be able to transit the waterway around the regulated area, and vessels may be allowed to enter the regulated area with the permission of the Coast Guard Patrol Commander.

Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the Beaufort River from 9 p.m. to 10 p.m. on July 12, 2002. 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 it minimally impacts navigation. The rule will only be in effect for one hour, vessels will still be able to transit the waterway around the regulated area, and vessels may be allowed to enter the regulated area with the permission of the Coast Guard Patrol Commander.

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. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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 contains no collection of information requirements under the Paperwork Reduction Act of 1995 (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. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1D, that this action is categorically excluded from further environmental documentation.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. From 9 p.m. until 10 p.m. on July 12, 2002, add temporary § 100.35T–07–087 to read as follows:

§ 100.35T–07–087 Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC.

(a) *Regulated area.* A regulated area is established for the waters in Beaufort River, Beaufort, SC encompassing a 175-yard radius around a barge located in approximate position 32° 25.593′ N, 080° 40.292′ W. All coordinates referenced use Datum: NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Coast Guard Group Charleston, SC.

(c) *Special local regulations.* Entry into the regulated area by non-participant persons or vessels is prohibited, unless expressly authorized by the Coast Guard Patrol Commander.

(d) *Dates.* This rule is effective from 9 p.m. until 10 p.m. on July 12, 2002.

Dated: June 27, 2002.

J.W. Stark,

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

[FR Doc. 02–17097 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MI79–01–7288a; FRL–7242–8]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action EPA is deleting Michigan attainment status designations (attainment, unclassifiable and nonattainment) affected by the original national ambient air quality standards (NAAQS) for particulate matter measured as total suspended particulate (TSP). On June 3, 1993 EPA published a final rulemaking action revising the prevention of significant deterioration (PSD) particulate matter increments, so that the increments are measured in terms of particulate matter with an aerodynamic diameter less than 10 microns (PM). Section 107(d)(4)(B) of the Clean Air Act (Act) authorizes EPA to eliminate all area TSP designations once the increments for PM become effective. The June 3, 1993 document, which became effective on June 3, 1994, also established the method by which EPA deletes such TSP designations.

DATES: This ''direct final'' rule is effective September 9, 2002, unless EPA receives written adverse or critical comments by August 9, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Christos Panos, at (312) 353–8328, before visiting the Region 5 Office.)

A copy of this redesignation is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

A. What Action Is EPA Taking?
B. What Is the Background for This Action?
C. Why Can We Approve This Request?

A. What Action Is EPA Taking?

We are deleting from the list of area designations in 40 CFR part 81, all of the designations for TSP in the state of Michigan (§ 81.323). Area designations which indicate the attainment status of each affected area with respect to the PM NAAQS already exist, and the TSP area designations are no longer needed.

B. What Is the Background for This Action?

In 1971, EPA promulgated primary and secondary NAAQS for particulate matter to be measured as TSP. Section 107(d) of the 1977 Amendments to the Act authorized each State to submit to the Administrator a list identifying the attainment status designations (attainment, unclassifiable and nonattainment) for TSP areas in the state. In 1978, EPA published the original list of all area designations pursuant to section 107(d)(2) (commonly referred to as ''section 107 areas''), including those designations for TSP, in 40 CFR part 81.

One of the purposes stated in the Act for the section 107 areas is for implementation of the statutory requirements of air quality PSD. The PSD provisions of part C of the Act generally apply in all section 107 areas that are designated attainment or unclassifiable (40 CFR 52.21(i)(3)). Under the PSD program, States must ensure that emissions from major stationary sources are controlled sufficiently by applying the best available control technology. Also, it must be shown that such controlled emissions from the new or modified source will not cause or contribute to air pollution that violates the NAAQS. Moreover, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond

prescribed maximum allowable increases in pollutant concentrations, referred to as ''increments.''

On July 1, 1987 (52 FR 242634), EPA revised the particulate matter NAAQS, replacing the TSP indicator with the PM indicator. On the same date, EPA promulgated final regulations under 40 CFR part 51 for State implementation of the revised NAAQS (52 FR 24672). In the preamble to that action, EPA announced that, because of the importance of the section 107 area designations to the applicability of the TSP increments, it would retain the TSP designations beyond the date on which EPA approves a State's revised PM State Implementation Plan (SIP). This would protect the applicability of the TSP increments until a PM increment system could be established.

The 1990 Amendments to the Act contained several pertinent provisions relating to or affecting the TSP area designations. Under section 107(d)(4)(B) of the amended Act, Congress established by operation of law the first nonattainment area designations for PM, and mandated that areas not initially defined as nonattainment are considered to be unclassifiable. Moreover, section 107(d)(4)(B) provided that any designation for particulate matter (measured in terms of TSP) that the Administrator promulgated prior to the date of enactment of the 1990 Amendments shall remain in effect for purposes of implementing the maximum allowable concentrations of particulate matter (measured in terms of TSP) increments until the Administrator determines that such designation is no longer necessary for that purpose.

C. Why Can We Approve This Request?

On June 3, 1993 (58 FR 31622), under the authority of section 166(f) of the Act, EPA published the final rulemaking replacing the TSP increments with equivalent PM increments. As a result, the PSD increments and NAAQS will be measured by the same indicator. As stated at 58 FR 31635, for States already having delegated authority to implement the Federal PSD regulations ''EPA will eliminate the TSP designations when the PM increments become effective under § 52.21 on June 3, 1994.'' The EPA has delegated to the state of Michigan the authority to implement the PSD program. The delegation agreement provides for automatic adoption of the revised PM increments once the increments become effective.

Final Action

Because TSP designations are no longer necessary, as described above, and the PSD regulations contained in 40 CFR 52.21 (the Federal PSD program) govern the review and approval of permits to construct and operate major stationary sources in Michigan, EPA is taking action to delete all TSP area designations in the state of Michigan.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective September 9, 2002 without further notice unless we receive relevant adverse written comments by August 9, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. We will then address all public comments received in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective September 9, 2002.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated

Takings'' issued under the executive order, and has determined that the rule's requirements do not constitute a taking. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 9, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: June 24, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

Accordingly, 40 CFR part 81 is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

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

§ 81.323 [Amended]

2. In § 81.323 *Michigan*, delete the table (including the title line) entitled ''Michigan—TSP''.

[FR Doc. 02–17240 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MN71–7296a; FRL–7242–6]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action EPA is deleting Minnesota attainment status designations (attainment, unclassifiable and nonattainment) affected by the original national ambient air quality standards (NAAQS) for particulate matter measured as total suspended particulate (TSP). On June 3, 1993 EPA published a final rulemaking action revising the prevention of significant deterioration (PSD) particulate matter increments, so that the increments are measured in terms of particulate matter with an aerodynamic diameter less than 10 microns (PM). Section 107(d)(4)(B) of the Clean Air Act (Act) authorizes EPA to eliminate all area TSP designations once the increments for PM become effective. The June 3, 1993 document, which became effective on June 3, 1994, also established the method by which EPA deletes such TSP designations.

DATES: This ''direct final'' rule is effective September 9, 2002, unless EPA receives written adverse or critical comments by August 9, 2002. If adverse comments are received, EPA will publish a timely withdrawl of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Christos Panos, at (312) 353–8328, before visiting the Region 5 Office.)

A copy of this redesignation is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Regulation Development Section(AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION:

This Supplementary Information section is organized as follows:

A. What Action Is EPA Taking?
B. What Is the Background for This Action?
C. Why Is This Action Approvable?

A. What Action Is EPA Taking?

We are deleting from the list of area designations in 40 CFR part 81, all of the designations for TSP in the state of Minnesota (§ 81.324). Area designations which indicate the attainment status of each affected area with respect to the PM NAAQS already exist, and the TSP area designations are no longer needed.

B. What Is the Background for This Action?

In 1971, EPA promulgated primary and secondary NAAQS for particulate matter to be measured as TSP. Section 107(d) of the 1977 Amendments to the Act authorized each State to submit to the Administrator a list identifying the attainment status designations (attainment, unclassifiable and nonattainment) for TSP areas in the state. In 1978, EPA published the original list of all area designations pursuant to section 107(d)(2) (commonly referred to as ''section 107 areas''), including those designations for TSP, in 40 CFR part 81.

One of the purposes stated in the Act for the section 107 areas is for implementation of the statutory requirements of air quality PSD. The PSD provisions of part C of the Act generally apply in all section 107 areas that are designated attainment or unclassifiable (40 CFR 52.21(i)(3)). Under the PSD program, States must ensure that emissions from major stationary sources are controlled sufficiently by applying the best available control technology. Also, it must be shown that such controlled emissions from the new or modified source will not cause or contribute to air pollution that violates the NAAQS. Moreover, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond prescribed maximum allowable

increases in pollutant concentrations, referred to as ''increments.''

On July 1, 1987 (52 FR 242634), EPA revised the particulate matter NAAQS, replacing the TSP indicator with the PM indicator. On the same date, EPA promulgated final regulations under 40 CFR part 51 for State implementation of the revised NAAQS (52 FR 24672). In the preamble to that action, EPA announced that, because of the importance of the section 107 area designations to the applicability of the TSP increments, it would retain the TSP designations beyond the date on which EPA approves a State's revised PM State Implementation Plan (SIP). This would protect the applicability of the TSP increments until a PM increment system could be established.

The 1990 Amendments to the Act contained several pertinent provisions relating to or affecting the TSP area designations. Under section 107(d)(4)(B) of the amended Act, Congress established by operation of law the first nonattainment area designations for PM, and mandated that areas not initially defined as nonattainment are considered to be unclassifiable. Moreover, section 107(d)(4)(B) provided that any designation for particulate matter (measured in terms of TSP) that the Administrator promulgated prior to the date of enactment of the 1990 Amendments shall remain in effect for purposes of implementing the maximum allowable concentrations of particulate matter (measured in terms of TSP) increments until the Administrator determines that such designation is no longer necessary for that purpose.

C. Why Is This Action Approvable?

On June 3, 1993 (58 FR 31622), under the authority of section 166(f) of the Act, EPA published the final rulemaking replacing the TSP increments with equivalent PM increments. As a result, the PSD increments and NAAQS will be measured by the same indicator. As stated at 58 FR 31635, for States already having delegated authority to implement the Federal PSD regulations ''EPA will eliminate the TSP designations when the PM increments become effective under § 52.21 on June 3, 1994.'' The EPA has delegated to the state of Minnesota the authority to implement the PSD program. The delegation agreement provides for automatic adoption of the revised PM increments once the increments become effective.

Final Action

Because TSP designations are no longer necessary, as described above, and the PSD regulations contained in 40 CFR 52.21 (the Federal PSD program) govern the review and approval of permits to construct and operate major stationary sources in Minnesota, EPA is taking action to delete all TSP area designations in the state of Minnesota.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective September 9, 2002 without further notice unless we receive relevant adverse written comments by August 9, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. We will then address all public comments received in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective September 9, 2002.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive

order, and has determined that the rule's requirements do not constitute a taking. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 9, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 26, 2002.

Norman Niedergang,

Acting Regional Administrator, Region 5.

Accordingly, 40 CFR part 81 is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

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

§ 81.324 [Amended]

2. In § 81.324 *Minnesota,* delete the table (including the title line) entitled ''Minnesota—TSP''.

[FR Doc. 02–17241 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0047; FRL–7180–4]

Oxadixyl; Tolerance Revocations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes all tolerances for the combined residues of the fungicide oxadixyl and its desmethyl metabolite. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the revocation of 14 tolerances which are counted among tolerance/exemption reassessments made toward the August 2002 review deadline.

DATES: This regulation is effective July 10, 2002; however, the tolerance revocations will not occur until the date specified in the regulatory text. Objections and requests for hearings, identified by docket ID number OPP–2002–0047, must be received by EPA on or before September 9, 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 IV. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0047 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8037; e-mail address: nevola.joseph@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 ID number OPP–2002–0047. 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

A. What Action is the Agency Taking?

This final rule revokes the FFDCA tolerances for the combined residues of oxadixyl and its desmethyl metabolite in or on specified commodities listed in the regulatory text because oxadixyl is no longer registered under FIFRA for uses on those commodities. The tolerances revoked with an expiration/revocation date by this final rule are not needed after the expiration date to cover the combined residues of oxadixyl and its desmethyl metabolite in or on domestically treated commodities or commodities treated outside but imported into the United States. While all sale and distribution of existing stocks of oxadixyl (except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal) is permitted until September 27, 2002, no oxadixyl use on those specified commodities within the United States is expected after the spring of 2003, and no one commented that there was a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

In the **Federal Register** of February 6, 2002 (67 FR 5548) (FRL–6817–4), EPA issued a proposed rule to revoke the tolerances listed in this final rule. Also, the February 6, 2002 proposal invited public comment for consideration and for support of tolerance retention under FFDCA standards. No comments were received by the Agency.

On November 1, 2001 (66 FR 55158) (FRL–6808–4), EPA published in the **Federal Register** a cancellation order for all oxadixyl product registrations effective September 27, 2001. Although the manufacture of oxadixyl products ended years ago and the registrants know of no products in channels of trade, the cancellation order allowed a period of 1 year from September 27, 2001, to permit all sale and distribution of existing stocks (except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal). The Agency believes that existing stocks of oxadixyl will be exhausted by the spring of 2003. Because no active registrations exist and because no comments expressed a need to retain these tolerances for import purposes, EPA is revoking all tolerances in 40 CFR 180.456 for the combined residues of oxadixyl and its desmethyl metabolite, with an expiration/revocation date of September 27, 2003. The Agency believes that this date allows sufficient time for any oxadixyl-treated food commodities to pass through the channels of trade.

For FQPA reassessment purposes, EPA counts ''Grass, forage, fodder and hay, group'' as 3 tolerances (grass, forage; grass, fodder; and grass, hay) and a total of 14 tolerances as reassessed. In the interim, before the tolerance expires and to conform to current Agency practice, EPA is revising tolerance commodity terminology names in 40 CFR 180.456 as follows: for ''Brassica (cole) leafy vegetables group'' to ''vegetable, brassica, leafy, group''; ''cereal grains group (except wheat)'' to ''grain, cereal, group, except wheat''; ''cotton seed'' to ''cotton, undelinted seed''; ''cucurbit vegetables group'' to ''vegetable, cucurbit, group''; ''fruiting vegetables (except cucurbits) group'' to ''vegetable, fruiting, group''; ''leafy vegetables (except Brassica vegetables) group'' to ''vegetable, leafy, except brassica, group''; ''nongrass animal feeds (forage, fodder, straw, and hay) group'' to ''animal feed, nongrass, group''; ''peas'' to ''pea''; ''root and tuber vegetables group'' to ''vegetable, root and tuber, group''; ''soybeans'' to ''soybean''; and ''sunflower seed'' to ''sunflower, seed.''

B. What is the Agency's Authority for Taking this Action?

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

C. When Do These Actions Become Effective?

EPA is revoking the tolerances for oxadixyl with an expiration/revocation date of September 27, 2003. EPA believes that by this date all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation will have been exhausted and that there is ample time for any treated food commodities to clear trade channels. Therefore, EPA believes the revocation/expiration dates in this document are reasonable.

Any commodities listed in the regulatory text of this document that are treated with the pesticide subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by the FQPA. Under this section, any residue of this pesticide in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2002 to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996. EPA is also required to assess the remaining tolerances by August 2006. As of June 25, 2002, EPA has reassessed over 5,140 tolerances. The oxadixyl tolerance depicted as ''Grass, forage, fodder and hay, group'' is counted as three tolerances because at the start of FQPA, the Agency's Tolerance Index System listed grass, forage; grass, fodder; and grass, hay tolerances for oxadixyl. In this rule, EPA is revoking

all oxadixyl tolerances, which count as 14 reassessments toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

IV. Objections and Hearing Requests

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 ID number OPP–2002–0047 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 September 9, 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. *Objection/hearing 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 IV.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 ID number OPP–2002–0047, 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).

V. Regulatory Assessment Requirements

This final rule will revoke tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final 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 as required by 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 other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with oxadixyl. Furthermore, for the pesticide named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis.

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.

VI. 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: June 12, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 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 180.456 is revised to read as follows:

§ 180.456 Oxadixyl; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide oxadixyl [2-methoxy-N-(2-oxo-1,3-oxazolidin-3-yl)-acet-2′,6′-xylidide] and its desmethyl (M-3) metabolite (2-hydroxy-N-(2-oxo-1,3-oxazolidin-3-yl)-acet-2′,6′-xylidide), calculated as oxadixyl in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/Revocation Date
Animal feed, nongrass, group	0.1	9/27/03
Cotton, undelinted seed	0.1	9/27/03
Grain, cereal, group, except wheat	0.1	9/27/03
Grass, forage, fodder and hay, group	0.1	9/27/03
Pea	0.1	9/27/03
Soybean	0.1	9/27/03
Sunflower, seed	0.1	9/27/03
Vegetable, brassica, leafy, group	0.1	9/27/03
Vegetable, cucurbit, group	0.1	9/27/03
Vegetable, fruiting, group	0.1	9/27/03

Commodity	Parts per million	Expiration/Revocation Date
Vegetable, leafy, except brassica, group	0.1	9/27/03
Vegetable, root and tuber, group	0.1	9/27/03

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 02–16859 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0113; FRL–7183–2]

Halosulfuron; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of halosulfuron in or on tomato. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on tomato. This regulation establishes a maximum permissible level for residues of halosulfuron in this food commodity. The tolerance will expire and is revoked on June 30, 2005.

DATES: This regulation is effective July 10, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0113, must be received on or before September 9, 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 VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0113 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; e-mail address: Madden.Barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially 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	Crop production
	112	Animal production
	311	Food manufacturing
	32532	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 ID number OPP–2002–0113. 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, 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

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the herbicide halosulfuron, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on tomato at 0.05 part per million (ppm). This tolerance will expire and is revoked on June 30, 2005. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Recently, EPA has received objections to a tolerance it established for halosulfuron on a different food commodity. The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. Although these objections concern separate rulemaking proceedings under the FFDCA, EPA has considered whether it is appropriate to establish the emergency exemption tolerance for halosulfuron in or on tomato while the objections are still pending.

Factors taken into account by EPA included how close the Agency is to concluding the proceedings on the objections, the nature of the current action, whether NRDC's objections raised frivolous issues, and the extent to which the issues raised by NRDC had already been considered by EPA. Although NRDC's objections are not frivolous, the other factors all support establishing this tolerance at this time. First, the objections proceeding is not near to conclusion. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA has just initiated a 60 day public comment period on them. [67 FR 41628-41635, June 19, 2002] Second, the nature of the current actions are extremely time-sensitive as they address emergency situations. Third, the issues raised by NRDC are not new matters but questions that have been the subject of considerable study by EPA and comment by stakeholders. Accordingly, EPA is proceeding with establishing the tolerances for halosulfuron in or on tomato.

III. Emergency Exemption for Halosulfuron on Tomato and FFDCA Tolerances

Yellow (*Cyperus esculentus*) and purple nutsedge (*Cyperus rotundus*) are very difficult to control warm season, perennial weeds that reproduce by seeds and nutlets. They have high reproductive potential and can be very competitive with tomatoes during crop establishment. In addition to crop competition nutsedge plants can penetrate the plastic mulch used in tomato culture destroying the plastic and allowing entrance of other pest species.

Halosulfuron will allow preemergence or post emergence applications to control emerged nutsedge plants before they can flower or form nutlets to propagate themselves. It can be used in the plant rows or between the plant rows. The alternative chemicals consist of methyl bromide whose production is being phased out, metam sodium, pebulate, and napropamide. The last three chemicals can only be applied preplant incorporated or preemergence and do not provide season long control of nutsedge. Cultivation and hand weeding only help to further distribute the plants and nutlets. Deep plowing can provide suppression the first time it is used but subsequent plowing operations bring the old tubers back up to germinate. The states of Florida and Georgia claim that yield losses of tomatoes due to purple and yellow nutsedge infestations can be as high as 20 to 30% compared to the next best alternative.

EPA has authorized under FIFRA section 18 the use of halosulfuron on tomato for control of purple and yellow nutsedge in Florida and Georgia. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of halosulfuron in or on tomato. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2005, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on tomato after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether halosulfuron meets EPA's registration requirements for use on tomato or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of halosulfuron by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Florida and Georgia to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for halosulfuron, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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, November 26, 1997) (FRL–5754–7).

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 halosulfuron and to make a determination on aggregate exposure,

consistent with section 408(b)(2), for a time-limited tolerance for residues of halosulfuron in or on tomato at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

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 halosulfuron-methyl are discussed in Unit II.A. of the final rule on halosulfuron-methyl pesticide tolerances published in the **Federal Register** for September 29, 2000 (65 FR 58424) (FRL–6746–2). A summary of the toxicological dose and endpoints for halosulfuron-methyl for use in this human risk assessment is discussed in Unit III.B. of the final rule on halosulfuron-methyl pesticide tolerances published in the **Federal Register** of December 26, 2001 (66 FR 66333) (FRL–6816–8).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.479) for the residues of halosulfuron, in or on a variety of raw agricultural commodities. The established tolerances include tree nuts (crop group 14); pistachio nutmeat; almond hulls; sugarcane; corn (sweet, kernel+cob with husks removed, field grain, fodder, forage, pop); rice (grain, straw); and cotton (gin by-products and undelinted seed). Additionally, tolerances are established (40 CFR 180.479(a)(1)) for residues of halosulfuron-methyl and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (also referred to as CSA, expressed as parent equivalents) at 0.1 ppm in or on meat by-products of cattle, goats, hogs, horses and sheep. Risk assessments were conducted by EPA to assess dietary exposures from halosulfuron 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 one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues and 100 percent crop-treated for all commodities.

ii. *Chronic exposure.*In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues and 100 percent crop-treated for all commodities.

iii. *Cancer.* Halosulfuron is classified as a ''Not Likely'' human carcinogen. Therefore, risk assessments to assess cancer risk were not completed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for halosulfuron 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 halosulfuron.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop 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.

Since 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 percent of the Reference dose (%RfD) or percent of population adjusted dose (%PAD). Instead, drinking water levels of comparison (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. Since DWLOCs address total aggregate exposure to halosulfuron they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of halosulfuron for acute exposures are estimated to be 8.3 parts per billion (ppb) for surface water and 0.065 ppb for ground water. The EECs for chronic exposures are estimated to be 1.7 ppb for surface water and 0.065 ppb for ground water.

3. *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). Halosulfuron is currently registered for use on the following residential non-dietary sites: Residential turfgrass and landscaped areas.

Short- and intermediate-term exposure may occur for residential handlers and for postapplication activities. Exposure for adults is expected for handler and postapplication exposure. Residential post-application dermal and oral exposure is expected for infants and children. Adults may be exposed through skin contact with treated surfaces (dermal exposure), while children may be exposed through skin contact as well as orally, through hand-to-mouth exposure and through object-to-mouth exposure (putting grass in their mouth). Exposure estimates for adult handlers' and children's postapplication exposure to halosulfuron-methyl are based on the Agency's Draft Standard Operating Procedures for Residential Exposure Assessments (12/18/1997) and its interim revisions, and data from the review of Outdoor Residential Exposure

Task Force Chemical Handler Exposure Studies. Chronic exposures for the residential uses are not expected based on the use pattern.

4. *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 halosulfuron 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, halosulfuron 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 halosulfuron 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).

C. 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 database 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. *Conclusion.* There is a complete toxicity database for halosulfuron and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has determined that the 10X FQPA Safety factor for enhanced sensitivity to infants and children can be reduced to 1X. The decision is based upon the following reasons: There was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to halosulfuron-methyl. In the prenatal developmental toxicity studies in rats and rabbits and the 2-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

The Agency determined that the requirement of a developmental neurotoxicity study in rats did not warrant an application of additional safety factors because: (1) The alterations observed in the fetal nervous system occurred in only one species (in rats and not in rabbits); (2) the fetal effects which will be investigated in the required developmental neurotoxicity study were seen only at a dose of 750 mg/kg/day which is close to the Limit-Dose (1,000 mg/kg/day); (3) there was no evidence of clinical signs of neurotoxicity, brain weight changes, or neuropathology in the subchronic or chronic studies in rats; (4) the developmental neurotoxicity study is required only as confirmatory data to understand what the effect is at a high exposure (dose) level; (5) exposure assessments do not indicate a concern for potential risk to infants and children based on the results of the field trial studies and the very low application rate (~ 0.06 lbs. active ingredient per acre). Detectable residues are not expected in foods. Consequently, there is no concern that the level of 750 mg/kg/day would be approached.

D. 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 population adusted dose (PAD)) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational 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 EPA's 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 groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to halosulfuron in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA 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, EPA will reassess the potential impacts of halosulfuron on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to halosulfuron will occupy 1% or less of the aPAD for all population subgroups in DEEM® including females 13 years and older, infants and children. In addition, despite the potential for acute dietary exposure to halosulfuron in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of halosulfuron in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO HALOSULFURON

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females 13 years and older	0.5	<1%	8.3	0.065	15,000
All infants (< 1 year old)	0.5	1%	8.3	0.065	5,000
Children	0.5	<1%	8.3	0.065	5,000

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to halosulfuron from food will utilize less than 1% of the chronic population adjusted dose (cPAD) for all population subgroups in DEEM® including the U.S. population, infants and children. There are no residential uses for halosulfuron that result in chronic residential exposure to halosulfuron. Based on the use pattern, chronic residential exposure to residues of halosulfuron is not expected. In addition, despite the potential for chronic dietary exposure to halosulfuron in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of halosulfuron in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO HALOSULFURON

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.1	<1%	1.7	0.065	3,500
All infants (<1 year old)	0.1	<1%	1.7	0.065	1,000
Children	0.1	<1%	1.7	0.065	1,000

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). Halosulfuron is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for halosulfuron.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 4,500 for adults for both handler and postapplication exposures and 2,800 for infants and children for dermal and incidental oral exposures. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO HALOSULFURON

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. Population	4,500	100	1.7	0.065	17,000
Infants	2,800	100	1.7	0.065	4,800
Children	2,800	100	1.7	0.065	4,800

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Halosulfuron is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for halosulfuron.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,700 for adults and 1,100 for infants and children. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE- TERM EXPOSURE TO HALOSULFURON

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
U.S. Population	1,700	100	1.7	0.065	3,300
Infants	1,100	100	1.7	0.065	910
Children	1,100	100	1.7	0.065	910

5. *Aggregate cancer risk for U.S. population*. Halosulfuron is classified as a ''Not Likely'' human carcinogen. Therefore, risk assessments to assess cancer risk were not completed.

6. *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 halosulfuron residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. 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 is neither a Codex proposal, nor Canadian or Mexican maximum residue limits, for residues of halosulfuron in or on tomatoes, therefore harmonization is not an issue.

C. Conditions

A maximum of 0.094 pounds halosulfuron may be applied per acre per season. A total of 2 applications per season may be made. The preharvest interval (PHI) is 30 days.

VI. Conclusion

Therefore, the tolerance is established for residues of halosulfuron, methyl 5-[(4,6- dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on tomato at 0.05 ppm.

VII. 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–2002–0113 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 September 9, 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 VII.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 the docket control number OPP–2002–0113, 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).

VIII. Regulatory Assessment Requirements

This final rule establishes a time limited tolerance under FFDCA section 408. 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 FIFRA section 18 exemption under FFDCA section 408, 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.'' 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.

IX. 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: June 24, 2002.

Debra Edwards,

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 374.

2. In § 180.479, paragraph (b) is amended by revising the text and by alphabetically adding an entry for ''Tomato'' to the table to read as follows:

§ 180.479 Halosulfuron; tolerances for residues.

* * * * *

(b)*Section 18 emergency exemptions.* Time-limited tolerances are established for residues of halosulfuron, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl-3-chloro-1-

methyl-1H-pyrazole-4-carboxylate, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA in or on the following commodities:

Commodity	Parts per million	Expiration/ revocation date
* *	* *	*
Tomato	0.05	6/30/05

* * * * *

[FR Doc. 02–17266 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0117; FRL–7184–2]

Mesotrione; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of mesotrione, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in or on sweet corn and sweet corn forage and stover. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sweet corn. This regulation establishes maximum permissible levels for residues of mesotrione in these food commodities. The tolerances will expire and are revoked on June 30, 2004.

DATES: This regulation is effective July 10, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0117, must be received on or before September 9, 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 VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0117 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366; e-mail address: Pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially 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 ID number OPP–2002–0117. 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, 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

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the herbicide mesotrione, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in or on sweet corn, sweet corn forage, and sweet corn stover at 0.01, 0.50, and 2.0 part per million (ppm), respectively. These tolerances will expire and are revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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....''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Mesotrione on Sweet Corn and FFDCA Tolerances

Due to an unusually warm winter, a non-routine and urgent situation has occurred in Wisconsin due to volunteer potatoes. EPA has authorized under FIFRA section 18 the use of mesotrione on sweet corn for control of volunteer potatoes in Wisconsin. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of mesotrione in or on sweet corn. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2004, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sweet corn, sweet corn forage, and sweet corn fodder after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether mesotrione meets EPA's registration requirements for use on sweet corn or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of mesotrione by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Wisconsin to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for mesotrione on sweet corn, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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, November 26, 1997) (FRL–5754–7).

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 mesotrione and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of mesotrione, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in or on sweet corn, sweet corn forage, and sweet corn stover at 0.01, 0.50, and 2.0 ppm, respectively. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects 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 level of concern (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 mesotrione used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MESOTRIONE FOR USE IN HUMAN RISK ASSESSMENT[1]

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary all populations	Not applicable	Not applicable	No appropriate study available.
Chronic dietary all populations	LOAEL= 2.1 mg/kg/day UF = 300 Chronic RfD = 0.007 mg/kg/day	FQPA SF = 10X cPAD = chronic RfD FQPA SF = 0.0007 mg/kg/day	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F_1 pups.
Short-Term[1] Incidental Oral (1–7 days) (Residential)	NOAEL = 100 mg/kg/day	LOC for MOE = 1000 (Residential)	Developmental Toxicity Study - rat Maternal LOAEL = 300 mg/kg/day based upon decreased body weight gains during treatment and decreased food consumption.
Intermediate-Term[1] Incidental Oral (7 days - several months) (Residential)	LOAEL = 2.1 mg/kg/day	LOC for MOE = 3000 (Residential)	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F_1 pups.
Short-Term[1] dermal (1–7 days) (Occupational/Residential)	Oral study LOAEL = 100 mg/kg/day (dermal-absorption rate = 25%)	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential)	Developmental toxicity study - rat Developmental LOAEL = 100 mg/kg/day based upon delays in skeletal ossification and changes in manus/pes ossification assessments.
Intermediate-Term[1] Dermal (1 week - several months) (Occupational/Residential)	Oral study LOAEL = 2.1 mg/kg/day (dermal- absorption rate = 25%).	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential).	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F1 pups.
Long-Term[1] Dermal (several months - lifetime)(Occupational/Residential)	Oral study LOAEL = 2.1 mg/kg/day (dermal- absorption rate = 25%).	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential).	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F_1 pups.
Short-Term 1 Inhalation (1-7 days) (Occupational/Residential)	Oral study LOAEL = 100 mg/kg/day (inhalation-absorption rate = 100%)	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential).	Developmental Toxicity Study - rat Developmental LOAEL = 100 mg/kg/day based upon delays in skeletal ossification and changes in manus/pes ossification assessments.
Intermediate-Term 1 Inhalation (1 week - several months)(Occupational/Residential)	Oral study LOAEL = 2.1 mg/kg/day (inhalation-absorption rate = 100%)	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential).	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F_1 pups.
Long-Term 1 Inhalation (several months - lifetime) (Occupational/Residential)	Oral study LOAEL = 2.1 mg/kg/day (inhalation-absorption rate = 100%)	LOC for MOE = 300 (Occupational) LOC for MOE = 3,000 (Residential).	Reproduction Study - mouse Offspring LOAEL = 2.1 mg/kg/day based upon tyrosinemia in F_1 and F_{2a} offspring and ocular discharge in F_1 pups.
Cancer (oral, dermal, inhalation)	''not likely''	Not Applicable	Acceptable oral rat and mouse carcinogenicity studies; no evidence of carcinogenic or mutagenic potential.

UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, MOE = margin of exposure, LOC = level of concern.

[1] HED has revised the definitions used in its human health risk assessments to describe occupational and residential exposure durations (Memo, M. Stasikowski, 04-JUN-2001, ''Changes in the Definition of Exposure Durations for Occupational/Residential Risk Assessments Performed in the Health Effects Division''). The new exposure durations are as follows: 1. short-term, defined as lasting from 1 day to 1 month; 2. intermediate-term, defined as lasting from 1 to 6 months; 3. long-term, defined as lasting longer than 6 months. The toxicity endpoints originally selected for the short- (1–7 days) and intermediate-term (1 week to several months) incidental oral and the short- (1–7 days), intermediate- (1 week - several months) and long-term (several months - lifetime) dermal and inhalation endpoints are also applicable for the new exposure duration definitions for these routes of exposure.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been recently established (40 CFR 180.571) for the residues of mesotrione, in or on field corn forage, grain, and stover. Risk assessments were conducted by EPA to assess dietary exposures from mesotrione 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 one day or single exposure. No appropriate study available show any acute dietary effects of concern.

ii. *Chronic exposure.*In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992– nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Residue levels are at the recommended tolerances for field and sweet corn, and 100% of the crop is treated with mesotrione. The %cPAD for the general U.S. population is 2.1% and for the most sensitive population subgroups, Children (1–6 years old), is 5%.

iii. *Cancer.* Acceptable oral rat and mouse carcinogenicity studies showed no evidence of carcinogenic or mutagenic potential.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for mesotrione 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 mesotrione.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop 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.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use EECs from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (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. Since DWLOCs address total aggregate exposure to mesotrione they are further discussed in the aggregate risk sections below.

Based on the GENEEC (Version 1.2) and SCI-GROW models the EECs of mesotrione for acute exposures are estimated to be 20 parts per billion (ppb) for surface water and 0.15 ppb for ground water. The EECs for chronic exposures are estimated to be 13 ppb for surface water and 0.15 ppb for ground water.

3. *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). Mesotrione is not registered for use on any sites that would result in residential exposure.

4. *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 mesotrione 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, mesotrione 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 mesotrione 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).

C. 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 database 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 is quantitative evidence of increased susceptibility demonstrated in the oral prenatal developmental toxicity studies in rats, mice, and rabbits.

Delayed ossification was seen in the fetuses at doses below those at which maternal toxic effects were noted. Maternal toxic effects in the rat were decreased body weight gain during treatment and decreased food consumption and in the rabbit, abortions and GI effects.

5. *Conclusion*. The FQPA safety factor (10X) is retained in assessing the risk posed because there is quantitative evidence of increased susceptibility of the young exposed to mesotrione in the prenatal developmental toxicity studies in mice, rats, and rabbits and in the multi-generation reproduction study in mice, there is qualitative evidence of increased susceptibility of the young exposed to mesotrione in the multi-generation reproduction study in rats; and a Developmental Neurotoxicity Study is required to assess the effects of tyrosinemia on the developing nervous system exposed to mesotrione.

D. 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. 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 + chronic non-dietary, non-occupational 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's 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 groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to mesotrione in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA 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, EPA will reassess the potential impacts of mesotrione on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Acute doses and endpoints were not selected for the general U.S. population (including infants and children) or the females (13–50 years old) population subgroup for mesotrione; therefore, an acute dietary exposure analysis was not performed.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to mesotrione from food will utilize 2.1% of the cPAD for the U.S. population, 4.4% of the cPAD for all infants < 1 year old and 5% of the cPAD for children (1–6 years old). There are no residential uses for mesotrione that result in chronic residential exposure to mesotrione. In addition, despite the potential for chronic dietary exposure to mesotrione in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of mesotrione in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO MESOTRIONE

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.0007	2.1	4.3	0.15	24
All infants	0.0007	4.4	4.3	0.15	6.7
Children (1–6) years old)	0.0007	5.0	4.3	0.15	6.6
Females (13–50 years old)	0.0007	1.5	4.3	0.15	21

3. *Aggregate cancer risk for U.S. population*. Based on the lack of carcinogenic response in rats and mice and the lack of mutagenic effects, and that there are no data in the literature or SAR information to indicate carcinogenic potential, no cancer risk is posed.

4. *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 mesotrione residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high pressure liquid chromatography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, 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, Canadian, or Mexican tolerances/Maximum Residue Levels for mesotrione residues; thus, harmonization is not an issue at this time.

VI. Conclusion

Therefore, tolerances are established for residues of mesotrione, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in or on sweet corn, sweet corn forage, and sweet corn fodder at 0.01, 0.50, and 2.0 ppm, respectively.

VII. 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–2002–0117 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 September 9, 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 VII.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 the docket ID number OPP–-2002-0117, 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).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under FFDCA section 408. 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 FIFRA section 18 exemption under FFDCA section 408, such as the tolerances 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.

IX. 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: June 24, 2002.

Debra Edwards,

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 374.

2. Section 180.571 is amended by revising paragraph (b) to read as follows:

§ 180.571 Mesotrione; tolerances for residues.

* * * * *

(b)*Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the herbicide mesotrione, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in connection with use of the herbicide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table. The tolerances will expire on the dates specified in the table.

Commodity		Parts per million
Corn, sweet, kernel plus cob with husks removed	0.01	06/30/04
Corn, sweet, forage	0.50	06/30/04
Corn, sweet, stover	2.0	06/30/04

* * * * *

[FR Doc. 02–17265 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator has resolved many appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Alabama: Autauga, Elmore, Lowndes, & Montgomery (FEMA Docket No. D–7521).	City of Montgomery	Jan. 15, 2002, Jan. 22, 2002, *The Montgomery Advertiser*.	The Honorable Bobby N. Bright, Mayor of the City of Montgomery, P.O. Box 1111, Montgomery, Alabama 36101–1111.	Apr. 23, 2002 ...	010174 F
Connecticut: Fairfield (FEMA Docket No. D–7521).	Town of Greenwich	Feb. 11, 2002, Feb. 18, 2002, *Greenwich Times*.	Mr. Richard Bergstresser, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Feb. 4, 2002	090008 C
Florida:					
Pinellas (FEMA Docket No. D–7521).	City of St. Petersburg.	Nov. 14, 2001, Nov. 21, 2001, *St. Petersburg Times*.	The Honorable Rick Baker, Mayor of the City of St. Petersburg, P.O. Box 2842, St. Petersburg, Florida 33731–2842.	Nov. 7, 2001	125148 B&C
Leon (FEMA Docket No. D–7521).	City of Tallahassee	Jan. 16, 2002, Jan. 23, 2002, *Tallahassee Democrat*.	The Honorable Scott Maddox, Mayor of the City of Tallahassee, City Hall, 300 South Adams Street, Tallahassee, Florida 32301–1731.	Apr. 24, 2002 ...	120144 D
Manatee (FEMA Docket No. D–7521).	Unincorporated Areas.	Jan. 15, 2002, Jan. 21, 2002, *Sarasota Herald Tribune*.	Mr. Ernie Padgett, County Administrator, 1112 Manatee Avenue West, P.O. Box 1000, Bradenton, Florida 34206.	Jan. 7, 2002	120153 C
Orange (FEMA Docket No. D–7521).	Unincorporated Areas.	Jan. 16, 2002, Jan. 23, 2002, *The Orlando Sentinel*.	Dr. M. Krishnamurthy, P.E., Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, Florida 32839–9205.	Apr. 24, 2002 ...	120179 E
Georgia: Harris (FEMA Docket No. D–7521).	Unincorporated Areas.	Jan. 2, 2002, Jan. 9, 2002, *Harris County Journal*.	Ms. Carol Silva, Harris County Manager, P.O. Box 365, Hamilton, Georgia 31811.	Dec. 26, 2001 ..	130338 A
Indiana: Noble (FEMA Docket No. D–7521).	Unincorporated Areas.	Feb. 5, 2002, Feb. 12, 2002 *The Sun-News*.	Mr. Mark Pankap, President of the Noble County Board of Commissioners, Noble County Courthouse, 101 North Orange Street, Albion, Indiana 46701.	May 14, 2002 ...	180183 B
Mississippi: Forrest and Lamar (FEMA Docket No. D–7521).	City of Hattiesburg ..	Jan. 24, 2002, Jan. 30, 2002, *Hattiesburg American*.	The Honorable J. Ed Morgan, Mayor of the City of Hattiesburg, P.O. Box 1898, Hattiesburg, Mississippi 39403.	Jan. 16, 2002 ...	280053 C
North Carolina: Nash and Edgecomb (FEMA Docket No. D–7521).	City of Rocky Mount	Jan. 25, 2002, Feb. 1, 2002, *Rocky Mount Telegram*.	Mr. Stephen W. Raper, Rocky Mount City Manager, P.O. Box 1180, Rocky Mount, North Carolina 27802–1180.	May 3, 2002	370092 C
Pennsylvania:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Carbon (FEMA Docket No. D–7521).	Township of Lower Towamensing.	Dec. 28, 2001, Jan. 4, 2002, *Times News*.	Mr. Glen Hahn, Chairman, Township of Lower Towamensing Board of Supervisors, 595 Hahns Dairy Road, Palmerton, Pennsylvania 18701.	Apr. 5, 2002	421455 A
Carbon (FEMA Docket No. D–7521).	Borough of Palmerton.	Dec. 28, 2001, Jan. 4, 2002, *Times News*.	Mr. John Vignone, Borough of Palmerton Council President, 443 Delaware Avenue, Palmerton, Pennsylvania 18701.	Apr. 5, 2002	420253 A
South Carolina: Richland (FEMA Docket No. D–7521).	Unincorporated Areas.	Dec. 26, 2001, Jan. 2, 2002, *The State Newspaper*.	Mr. T. Cary McSwain, Richland County Administrator, P.O. Box 192, 2020 Hampton Street, Columbia, South Carolina 29202.	Dec. 19, 2001 ..	450170 G
Tennessee:					
Sumner and Davidson (FEMA Docket No. D–7521).	City of Goodlettsville	Dec. 27, 2001, Jan. 3, 2002, *The Tennessean*.	The Honorable Bobby T. Jones, Mayor of the City of Goodlettsville, City Hall, 105 South Main Street, Goodlettsville, Tennessee 37072.	Apr. 4, 2002	470287 C
McNairy (FEMA Docket No. D–7521).	Unincorporated Areas.	Jan. 16, 2002, Jan. 23, 2002, *Independent Appeal*.	Mr. Mike Smith, McNairy County Executive, McNairy County Courthouse, 170 West Court Avenue, Selmer, Tennessee 38375.	Apr. 24, 2002 ...	470127 D
Shelby (FEMA Docket No. D–7521).	Unincorporated Areas.	Jan. 18, 2002, Jan. 25, 2002, *Daily News*.	The Honorable Jim Rout, Mayor of Shelby County, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	Apr. 26, 2002 ...	470214 E
Virginia: Prince William (FEMA Docket No. D–7521).	Unincorporated Areas.	Feb. 7, 2002, Feb. 14, 2002, *Potomac News*.	Mr. Craig Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	May 16, 2002 ...	510119 D

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17277 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Director, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
ALABAMA	
Cowarts (Town), Houston County (FEMA Docket No. D–7307)	
Crawford Creek:	
Approximately 1,325 feet downstream of Omusee Road	*228
Just upstream of Omusee Road	*233
Maps available for inspection at the Cowarts Town Hall, 800 Jester Street, Cowarts, Alabama.	
Dothan (City), Houston County (FEMA Docket No. D–7307)	
Rock Creek:	
Approximately 50 feet upstream of the confluence with Little Choctawhatchee River	*228
At Murray Road	*312
Beaver Creek Tributary 1:	
Approximately 300 feet downstream of Honeysuckle Road	*270
Approximately 100 feet upstream of State Route 52	*305
Poplar Spring Branch:	
At the confluence with Omusee Creek	*216
At a point approximately 300 feet upstream of U.S. Route 84	*283
Rocky Branch:	
Approximately 150 feet upstream of the confluence with Omusee Creek	*231
At East Wilson Street	*301
Cypress Creek:	
Approximately 1,700 feet upstream of Hodgesville Road	*227
Approximately 60 miles upstream of East Coe Dairy Road	*291
Beulah Creek:	
Approximately 1,500 feet upstream of the confluence with Omusee Creek	*233
Approximately 1.04 miles upstream of Headland Avenue	*276
Omusee Creek:	
Approximately 50 feet upstream of the confluence of Golf Creek	*208
Approximately 0.33 mile upstream of Old Kinsey Road	*230
Golf Creek:	
At the confluence with Omusee Creek	*208
At Prevatt Road	*264
Crawford Creek:	
At the confluence with Golf Creek	*208
Approximately 1,325 feet downstream of Omusee Road	*228
Cypress Creek Tributary 1:	
At the confluence with Cypress Creek	*250
Approximately 1,500 feet upstream of Cottonwood Road	*281
Cypress Creek Tributary 2:	
Just upstream of Third Avenue	*240
Just upstream of dirt trail	*296
Chipola Creek:	
At Fuller Road	*240
Just upstream of Taylor Road	*282
Chipola Creek Tributary:	
At the confluence with Chipola Creek	*266
Approximately 0.41 mile upstream of Bruner Road	*284
Beaver Creek Tributary 2:	
Approximately 250 feet upstream from the confluence with Beaver Creek	*223
Approximately 530 feet upstream of most upstream dam	*249
Beaver Creek Tributary 3:	
At the confluence with Beaver Creek Tributary 2	*247
Just downstream of Enterprise Highway	*298
Harrison Mill Creek:	
Approximately 0.37 mile upstream of the confluence with Little Choctawhatchee River	*205
Approximately 0.5 mile upstream of Bethlehem Road	*224
Cooper Creek:	
Approximately 1,725 feet upstream of Lucy Grade Road	*205
Approximately 190 feet upstream of Fowler Road	*219
Unnamed Tributary to Beulah Creek:	
At the confluence with Beulah Creek	*276
Approximately 340 feet upstream of the confluence with Beulah Creek	*277
Maps available for inspection at the Dothan City Hall, 126 North St. Andrews, Dothan, Alabama.	
Houston County (Unincorporated Areas) (FEMA Docket No. D–7307)	
Rocky Branch:	
At the confluence with Omusee Creek	*231
Approximately 150 feet upstream of confluence with Omusee Creek	*231
Chipola Creek:	
Approximately 300 feet downstream of South Park Avenue	*250
Approximately 1,275 feet upstream of Bruner Road	*261
Golf Creek:	
At the confluence of Omusee Creek	*208
At the confluence of Crawford Creek	*208
Cypress Creek Tributary 2:	
At the confluence of Cypress Creek	*238
Approximately 450 feet upstream of Reservoir Outlet	*270
Cooper Creek:	
At confluence with Cowarts Creek	*192
Approximately 2,000 feet upstream of Lucy Grade Road	*205
Beaver Creek Tributary 2:	
At the confluence of Beaver Creek	*223
Approximately 250 feet upstream of the confluence of Beaver Creek	*223
Omusee Creek:	
Approximately 1,580 feet downstream of Watson Bridge Road	*207
At the confluence of Beulah Creek and Burdeshaw Mill Creek	*233
Crawford Creek:	
At the confluence of Golf Creek	*208
Approximately 1,175 feet upstream of State Route 52	*227
Cypress Creek:	
Approximately 525 feet downstream of Hodgesville Road	*223
Approximately 350 feet downstream of confluence of Cypress Creek Tributary 1	*250
Maps available for inspection at the Houston County Emergency Management Agency, 114 North Oats Street, Dothan, Alabama.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Taylor (Town), Houston County (FEMA Docket No. D–7307)	
Chipola Creek:	
Approximately 30 feet downstream of Fuller Road	*236
Approximately 100 feet upstream of Fuller Road	*236
Maps available for inspection at the Taylor Town Hall, 1469 South County Road 59, Taylor, Alabama.	
FLORIDA	
Cinco Bayou (Town), Okaloosa County (FEMA Docket No. D–7283)	
Choctawhatchee Bay (along Cinco Bayou):	
Approximately 400 feet north of Opp Road and Opp Boulevard	*8
Approximately 800 feet northeast of the intersection of Troy Street Northeast and Yacht Club Drive Northeast at the shoreline	*12
Maps available for inspection at the Town Hall, 10 Yacht Club Drive, Fort Walton Beach, Florida.	
Destin (City), Okaloosa County (FEMA Docket No. D–7283)	
Choctawhatchee Bay:	
Approximately 350 feet north of Harbor Lane and Indian Trail Drive intersection	*7
Approximately 900 feet west of the intersection of Calhoun Avenue and Zerbe Street	*10
Gulf of Mexico:	
At intersection of Lagoon Drive and Moreno Point Road	*9
Approximately 800 feet south of Miracle Strip Parkway and Airport Road	*16
Maps available for inspection at the Destin City Hall, Community Development Department, 4200 Two Trees Road, Destin, Florida.	
Fort Walton Beach (City), Okaloosa County (FEMA Docket No. D–7283)	
Santa Rosa Sound:	
At intersection of 1st Street Southwest and 4th Avenue Southwest	*8
Approximately 1,000 feet south of intersection of Hood Avenue Southeast and Brooks Street Southeast	*11
Choctawhatchee Bay:	
Intersection of Arizona Drive and Hughes Street Northeast	*8
Approximately 600 feet northeast of intersection of Bay Drive Northeast and Hollywood Boulevard Northeast	*12
Choctawhatchee Bay (along Garnier Bayou):	
Approximately 400 feet northeast of intersection of Martin Place Northwest and Vaughn Street Northwest	*8
Approximately 300 feet southeast of intersection of Bradley Drive and Beach View Drive	*12
Choctawhatchee Bay (along Garnier Bayou):	
Approximately 250 feet northeast of intersection of Sherwood Road and Mooney Road	*8
Approximately 300 feet east of intersection of Marshall Drive and Beach View Drive	*12
Maps available for inspection at 107 Miracle Strip Parkway, Fort Walton Beach, Florida.	
Gulf County (Unincorporated Areas) (FEMA Docket Nos. D–7500, D–7508, and D–7295)	
Gulf of Mexico:	
Along the coast of the Gulf of Mexico approximately 1,000 feet north of Eagle Harbor	*12
Along the Gulf of Mexico shoreline, approximately 2,000 feet west of Indian Pass	*14
St. Joseph Bay:	
Approximately 1,500 feet inland from St. Joseph Bay, along the shoreline of St. Joseph Bay	*8
Along the St. Joseph Bay shoreline, approximately 3 miles southeast of Pig Island	*11
Indian Lagoon:	
Along the shoreline of Indian Lagoon, approximately 1,000 feet west of Indian Pass	*9
Approximately 500 feet west of Indian Pass	*10
Maps available for inspection at Gulf County Courthouse, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida.	
Mary Esther (City), Okaloosa County (FEMA Docket No. D–7283)	
Santa Rosa Sound:	
Approximately 800 feet south of the intersection of Sleepy Hollow Road and Miracle Strip Parkway	*9
Approximately 520 feet south of intersection of Royal Palm Drive and Miracle Strip Parkway	*11
Maps available for inspection at 195 Christobal Road North, Mary Esther, Florida.	
Niceville (City), Okaloosa County (FEMA Docket No. D–7283)	
Choctawhatchee Bay:	
At intersection of Bayshore Drive and Weeden Island Drive	*7
Approximately 600 feet southeast of intersection of Bayshore Drive and 7th Street	*10
Swift Creek:	
Approximately 100 feet downstream of State Route 20	*7
Approximately 2,400 feet upstream of State Route 20	*7
Turkey Creek:	
Approximately 100 feet downstream of State Route 85	*7
Approximately 1,700 feet upstream of State Route 85	*7
Choctawhatchee Bay (along Boggy Bayou):	
Approximately 750 feet west of intersection of Meigs Street and Bayshore Drive	*9
Approximately 100 feet north of intersection of 31st Street and Bayshore Drive	*7
Choctawhatchee Bay (along Rocky Bayou):	
Approximately 400 feet southeast of intersection of 11st Street and Baha Vista Drive	*10
At intersection of 11th Street and Baha Vista Drive	*7
Maps available for inspection at 208 North Partin Drive, Niceville, Florida.	
Oklaloosa County (Unincorporated Areas) (FEMA Docket No. D–7283)	
Gulf of Mexico:	
Intersection of Santa Rosa Boulevard and Siebert Drive	*9
Approximately 500 feet south of intersection of Abalone Court and Caviar Drive	*16
Santa Rosa Sound:	
Approximately 800 feet east of intersection of Woodland Avenue and Miracle Strip Parkway	*8
Approximately 1,000 feet south of intersection of Miracle Strip Parkway and Green Drive	*12

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
At intersection of Venus Court and Santa Rosa Boulevard	*9
Choctawhatchee Bay:	
At intersection of 13th Street South and Tamarck Avenue	*7
Approximately 400 feet south of Wenoma Way and Cherokee Road intersection	*12
Choctawhatchee Bay (along Cinco Bayou):	
Approximately 400 feet south of intersection of Valeria Street and Russell Boulevard	*8
Approximately 500 feet southeast of intersection of Bradley Drive and Beach View Drive	*12
Choctawhatchee Bay (along Garnier Bayou):	
At intersection of Eglin Parkway and Beach View Drive	*9
Approximately 600 feet southeast of intersection of 2nd Avenue and Beach View Drive	*12
Choctawhatchee Bay (along Boggy Bayou):	
Approximately 150 feet south of intersection of Bayshore Drive and Palm Boulevard	*7
Approximately 1,250 feet west of intersection of Bayshore Drive and Palm Boulevard	*10
Choctawhatchee Bay (along Rocky Bayou):	
Approximately 150 feet east of intersection of Capri Cove Road and Lido Cove Road	*7
Approximately 500 feet west of intersection of Marina Cove Road and Yacht Club Drive	*10
Lightwood Knot Creek:	
Mouth at Garnier Bayou	*8
2,250 feet upstream of State Road 189	*8
Maps available for inspection at 1804 Lewis Turner Boulevard, Suite 200, Fort Walton Beach, Florida	
Port St. Joe (City), Gulf County (FEMA Docket Nos. D–7508, and D–7295)	
St. Joseph Bay:	
Intersection of 11th Street and Palmer Boulevard	*8
Approximately 250 feet west of intersection of Constitution Drive and 14th Street	*12
At intersection of 16th Street and Long Avenue	*8
Shallow Flooding:	
Approximately 425 feet southeast of intersection of Fourth Street and Woodward Avenue	*8
Maps available for inspection at the City of Port St. Joe Chamber of Commerce Office, 105 West 4th Street, Port St. Joe, Florida.	
Shalimar (Town), Okaloosa County (FEMA Docket No. D–7283)	
Choctawhatchee Bay:	
At northeast corner of intersection of Eglin Parkway and Gardner Drive	*8
Approximately 1,300 feet southwest of the intersection of Old Ferry Road and Gardner Drive	*12
Choctawhatchee Bay (along Garnier Bayou):	
Approximately 100 feet east of the intersection of Plew Avenue and Shalimar Drive	*8
Approximately 600 feet west of the intersection of Gardner Drive and Clifford Drive	*12
Maps available for inspection at #2 Cherokee Road, Shalimar, Florida.	
Valparaiso (City), Okaloosa County (FEMA Docket No. D–7283)	
Choctawhatchee Bay:	
Approximately 200 feet south of intersection of Florida Avenue and Grand View Avenue	*7
Approximately 1,000 feet east of intersection of Jasmine Avenue and Louisiana Avenue	*10
Choctawhatchee Bay (along Boggy Bayou):	
Approximately 500 feet north of the intersection of Bayshore Drive and John Sims Parkway	*7
Approximately 1,250 feet northeast of the intersection of Grand View Avenue and Tennessee Avenue	*10
Maps available for inspection at the City Hall, 465 Valparaiso Parkway, Valparaiso, Florida.	
ILLINOIS	
Carbon Cliff (Village), Rock Island County (FEMA Docket No. D–7524)	
Unnamed Creek:	
Approximately 1,750 feet upstream of the Chicago, Rock Island and Pacific Railroad	*577
Approximately 560 feet upstream of the confluence of Tributary 3 to Unnamed Creek	*657
Tributary 1 to Unnamed Creek:	
At the confluence with Unnamed Creek	*594
Approximately 0.6 mile upstream of the confluence with Unnamed Creek	*636
Tributary 2 to Unnamed Creek:	
At the confluence with Unnamed Creek	*622
Approximately 960 feet upstream of the confluence with Unnamed Creek	*640
Tributary 3 to Unnamed Creek:	
At the confluence with Unnamed Creek	*650
Approximately 800 feet upstream of the confluence with Unnamed Creek	*662
Shallow Flooding Area:	
Approximately 400 feet southeast of intersection of 1st Avenue and 5th Street	#1
Approximately 200 feet southwest of intersection of 1st Avenue and 5th Street	#1
Maps available for inspection at the Carbon Cliff Village Hall, 106 First Avenue, Carbon Cliff, Illinois.	
Rock Island (City), Rock Island County (FEMA Docket No. D–7512)	
Mississippi River:	
At confluence of rock River	*564
Approximately 2,100 feet upstream of confluence with Rock River	*564
Rock River:	
At the confluence with Mississippi River	*564
Approximately 0.55 mile downstream of Chicago, Rock Island, and Pacific Railroad	*564
North Channel Rock River:	
At confluence with Rock River	*564
Approximately 1,650 feet upstream of confluence with Rock River	*564
Old Channel Mill Creek:	
At Interstate 280	*563
Approximately 1,280 feet upstream of Interstate 280	*563
Maps available for inspection at the City Hall, 1528 3rd Avenue, Rock Island, Illinois.	
Rock Island County (Unincorporated Areas) (FEMA Docket No. D–7512)	
Shaffer Creek:	
At the confluence with Rock Riber	*573
Approximately 900 feet upstream of East 3rd Avenue	*579
Maps available for inspection at the Rock Island County Building, 1504 3rd Avenue, Rock Island, Illinois.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Silvis (City), Rock Island County (FEMA Docket No. D–7512)	
Unnamed Creek:	
Approximately 165 feet upstream of the dam	*650
Approximately 525 feet upstream of the dam	*650
Maps available for inspection at the Silvis City Inspector's Office, 1032 1st Avenue, Silvis, Illinois.	
INDIANA	
Hamilton (Town), DeKalb and Steuben Counties (FEMA Docket No. D–7524)	
Fish Creek:	
Approximately 2,750 feet downstream of Bellfountain Road	*888
Approximately 740 feet upstream of South Wayne Street	*891
Maps available for inspection at the Hamilton Town Hall, 7750 South Wayne Street, Hamilton, Indiana.	
OHIO	
Niles (City), Trumball County (FEMA Docket No. D–7512)	
Meander Creek:	
Approximately 0.6 mile upstream of CSX Transportation	*862
Approximately 50 feet upstream of corporate limits	*862
Maps available for inspection at the Niles Building and Zoning Department, 34 West State Street, Niles, Ohio.	
PENNSYLVANIA	
Bullskin (Township), Fayette County (FEMA Docket No. D–7524)	
Jacobs Creek:	
At the downstream corporate limits	*1,037
At a point approximately 250 feet upstream of State Route 31	*1,142
Maps available for inspection at the Bullskin Township Municipal Building, 178 Shenandoah Road, Connellsville, Pennsylvania.	
Everson (Borough), Fayette County) FEMA Docket No. D–7524)	
Jacobs Creek:	
Approximately 2,400 feet downstream of 5th Avenue	*1,025
Upstream corporate limits	*1,029
Maps available for inspection at Everson Borough Building, Brown Street, Everson, Pennsylvania.	
Upper Tyrone (Township), Fayette County (FEMA Docket No. D–7524)	
Jacobs Creek:	
At State Route 819	*1,020
At upstream corporate limits	*1,037
Stauffer Run:	
At confluence with Jacobs Creek	*1,030
At upstream corporate limits	*1,031
Maps available for inspection at the Upper Tyrone Township Building, 259 Montgomery Road, Scottdale, Pennsylvania.	
TENNESSEE	
Chattanooga (City), Hamilton County (FEMA Docket No. 7512)	
North Chickamauga Creek:	
At confluence with the Tennessee River	*660
Approximately 200 feet downstream to Thrasher Pike	*682
Tennessee River:	
Approximately 1,625 feet downstream of Shoal Creek	*650
Just downstream of Chickamauga Dam	*660
Mountain Creek:	
At the confluence with the Tennessee River	*652
Approximately 1,109 feet upstream of the Norfolk Southern Railway	*652
Lookout Creek:	
At the confluence with Tennessee River	*654
Approximately 160 feet upstream of the confluence of Black Creek	*654
Black Creek:	
At the confluence with Lookout Creek	*654
At downstream side of Norfolk Southern Railway (first crossing)	*654.
Shallow Flooding Areas:	
In the vicinity of the Tennessee River, south of Cherokee Boulevard	*656
Stringers Branch:	
At the confluence with Mountain Creek	*652
At Signal Mountain Road	*652
Chattanooga Creek:	
Approximately 850 feet downstream of Market Street	*655
At downstream side of 2nd crossing of Norfolk Southern Railway	*655
Maps available for inspection at the City of Chattanooga City Hall Annex, 101 East 11th Street, Room 44, Chattanooga, Tennessee.	
Collegedale (City), Hamilton County (FEMA Docket No. D–7512)	
Wolftever Creek Tributary:	
At the confluence with Wolftever Creek	*761
Approximately 950 feet upstream of Bill Reed Road	*790
Wolftever Creek:	
At the confluence of Wolftever Creek Tributary	*761
Approximately 400 feet upstream of Ringgold-Ooltawah Road	*766
Maps available for inspection at the City of Collegedale Public Safety Director's Office, 4910 Swinyar Drive, Collegedale, Tennessee.	
East Ridge (City), Hamilton County (FEMA Docket No. D–7512)	
Spring Creek:	
At Interstate 75	*679
At Spring Creek Road	*679
South Chickamauga Creek:	
Approximately 800 feet downstream of 4th crossing of Louisville and Nashville Railroad	*678
At upstream state boundary	*689
Maps available for inspection at the Building Department, 1517 Tombras Avenue, East Ridge, Tennessee.	
Gallatin (City), Summer County (FEMA Docket No. D–7522)	
Cumberland River:	
Approximately 1 mile downstream of the Gallatin Stream Plant gage	*453
Approximately 3.0 miles downstream of the Gallatin Stream Plant gage	*453
Maps available for inspection at the Gallatin City Hall, 132 West Main Street, Gallatin, Tennessee.	
Goodlettsville (City), Davidson and Sumner Counties (FEMA Docket No. D–7524)	
Slaters Creek:	
At the confluence with Mansker Creek	*452
Approximately 1,640 feet upstream of Long Drive	*475
Pattens Branch:	
At the confluence with Madison Creek	*466

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 1,640 feet upstream of most upstream crossing of Pattens Branch Road	*521
Goodlettsville Outlet Ditch:	
At the confluence with Mansker Creek	*437
At the downstream side of Old Long Hollow Pike	*437
Madison Creek:	
At the confluence with Mansker Creek	*432
Approximately 1.51 miles upstream of Pattens Branch	*535
Mansker Creek:	
At the confluence of Madison Creek	*432
Approximately 1,450 feet upstream of the most upstream crossing of U.S. Route 41	*485
Willis Branch:	
At the confluence with Madison Creek	*432
Approximately 0.12 mile upstream of the confluence with Madison Creek	*432
Maps available for inspection at the Goodlettsville City Hall, 105 South Main Street, Goodlettsville, Tennessee.	
Hamilton County (Unincorporated Areas) (FEMA Docket No. D–7512)	
Rogers Branch:	
At confluence with Wolftever Creek	*687
At Access/Montain View Road	*748
Rogers Branch Tributary:	
At confluence with Rogers Branch	*719
Approximately 550 feet upstream of Interstate 85	*742
Wolfever Creek:	
At the confluence with Wolftever Creek Tributary	*761
Approximately 350 feet upstream of the confluence of Wolftever Creeks Tributary	*761
Wolftever Creek Tributary:	
At the confluence of Wolftever Creek	*761
Approximately 2,200 feet upstream of Bill Reed Road	*795
Little Soddy Creek:	
At the City of Soddy-Daisy corporate limits	*820
Approximately 120 feet upstream of the City of Soddy-Daisy corporate limits	*823
Lookout Creek:	
Approximately 135 feet downstream of the Norfolk Southern Railway	*654
Approximately 525 feet upstream of Cummings Highway	*654
Tennessee River:	
At the county boundary	*646
At the confluence of Shoal Creek	*650
Fruedenberg Creek:	
Approximately 250 feet upstream of confluence with Middle Creek	*1,670
Approximately 0.9 mile upstream of confluence with Middle Creek	*1,777
Lick Branch:	
At confluence with North Chickamauga Creek	*670
Approximately 50 feet downstream of Thrasher Pike	*676
Lick Branch Tributary 1:	
At confluence with Lick Branch	*670
Approximately 100 feet downstream of Thrasher Pike	*683
Lick Branch Tributary 2:	
At confluence with Lick Branch	*670
Approximately 50 feet downstream of Thrasher Pike	*675
Lick Branch Tributary 3:	
At confluence with Lick Branch	*670
Approximately 50 feet downstream of Thrasher Pike	*680
Middle Creek:	
Approximately 1,100 feet downstream of Edwards Point Road	*1,634
Approximately 50 feet downstream of Timesville Road	*1,718
North Chickamauga Creek:	
At the upstream side of Lower Mill Road	*669
Approximately 1 mile upstream of Dayton Pike	*753
Possum Creek:	
At Lee Pike	*687
Approximately 1.4 miles upstream of Black Valley Road	*862
Sale Creek:	
At the confluence with the Tennessee River	*688
Approximately 1,580 feet upstream of the confluence with the Tennessee River	*688
Maps available for inspection at the Regional Planning Agency, County Courthouse, Room 208, Chattanooga, Tennessee.	
Henderson (City), Sumner County (FEMA Docket No. D–7522	
Drakes Creek:	
Approximately 0.4 mile upstream of U.S. Route 31E	*452
Approximately 1,200 feet upstream of Long Hollow Pike	*518
Unnamed Tributary 5:	
Approximately 50 feet upstream of Buchanan Circle	*507
Approximately 0.4 mile upstream of Buchanan Circle	*523
Station Camp Creek:	
Approximately 1,430 feet upstream of Station Camp Creek Road	*456
Approximately 1,060 feet upstream of Long Hollow Pike	*490
Cumberland River:	
At the downstream county boundary	*432
At the downstream side of Old Hickory Dam	*432
Center Point Branch:	
At the confluence with Mansker Creek	*432
Approximately 1,750 feet upstream of Hickory Lane	*437
Madison Creek:	
At the confluence with Mansker Creek	*432
Approximately 250 feet downstream of Long Hollow Pike	*443
Mansker Creek:	
At the confluence with Cumberland River	*432
At the confluence of Madison Creek	*432
Maps available for inspection at the Henderson City Hall, One Executive Park Drive, Henderson, Tennessee.	
Metropolitan Government of Nashville and Davidson County (FEMA Docket No. D–7524).	
Mansker Creek:	
Upstream side of the most downstream crossing of U.S. Route 41	*452
At a point approximately 1.14 miles upstream of Old Shiloh Road	*584
Lumsley Fork:	
At the confluence with Mansker Creek	*453
At a point approximately 211 feet upstream of the confluence with Mansker Creek	*454
Maps available for inspection at the Metropolitan Government of Nashville and Davidson County Public Works, 720 South 5th Street, Nashville, Tennessee.	
Millersville (City), Summer County (FEMA Docket No. D–7522)	
Slaters Creek:	
Just upstream of Long Drive	*471
Approximately 1,140 feet upstream of the most upstream crossing of Interstate 65	*562
East Fork Slaters Creek:	
At the confluence with Slaters Creek	*506
Approximately 0.81 mile upstream of Pole Hill Road	*563
Mansker Creek:	
Approximately 1,450 feet upstream of the most upstream crossing of U.S. Route 41	*485

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 1.1 miles upstream of Old Shiloh Road	*584
Maps available for inspection at the Millersville City Hall, 1246 Louisville Highway, Millersville, Tennessee.	
Portland (City), Summer County (FEMA Docket No. D–7522)	
Donoho Branch:	
Approximately 106 feet downstream of College Street	*794
Approximately 0.3 mile upstream of State Route 52	*805
Portland Channel:	
Approximately 1,900 feet downstream of Victor Reiter Parkway	*787
Approximately 0.5 mile upstream of Morningside Drive	*794
Maps available for inspection at the Portland City Hall, 100 South Russel Street, Portland, Tennessee.	
Red Bank (City), Hamilton County (FEMA Docket No. D–7512)	
Stringers Branch:	
Approximately 400 feet downstream of Signal Mountain Road	*652
At Barker Road	*785
Maps available for inspection at the Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee.	
Signal Mountain (Town), Hamilton County (FEMA Docket No. D–7512)	
Middle Creek:	
At Edwards Point Road	*1,641
Approximately 850 feet upstream of Middle Creek Road	*1,675
Frudenberg Creek:	
At confluence with Middle Creek	*1,667
Approximately 0.9 mile upstream of confluence with Middle Creek	*1,774
Maps available for inspection at the Building Inspector's Office, 1111 Ridgeway Avenue, Signal Mountain, Tennessee.	
Soddy-Daisy (City), Hamilton County (FEMA Docket No. D–7512)	
North Chickamauga Creek:	
Approximately 200 feet downstream of Thrasher Pike	*682
Approximately 1 mile upstream of Dayton Pike	*753
Poe Branch:	
Approximately 2,500 feet downstream of Harrison Lane	*684
Approximately 1,325 feet upstream of Card Road	*741
Soddy Creek:	
Approximately 50 feet upstream of the Norfolk Southern Railway	*748
Approximately 740 feet upstream of the Norfolk Southern Railway	*758
Maps available for inspection at the City Hall Office, 9835 Dayton Pike, Soddy-Daisy, Tennessee.	
Summer County (Unincorporated Areas) (FEMA Docket No. D-7522)	
Albright Creek:	
Approximately 50 feet downstream of Willmore Road	*454
Just downstream of Willmore Road	*454
Arterburn Branch:	
At the confluence with Honey Run Creek	*743
Approximately 0.74 mile upstream of the confluence with Honey Run Creek	*769
Jones Branch:	
Approximately 0.67 mile upstream of Tyree Springs Road	*804
Approximately 0.69 mile upstream of Tyree Springs Road	*805
Hogan Branch:	
At the confluence with Drakes Creek	*545
Approximately 1.3 miles upstream of Hogan Branch Road	*621
Drakes Creek:	
Approximately 1,200 feet upstream of Long Hollow Pike	*518
Approximately 0.5 miles upstream of Shell Road	*562
Honey Run Creek:	
Approximately 180 feet upstream of U.S. Route 31 West and State Route 41	*714
At the confluence of Jones Branch and Arberburn Branch	*743
Station Camp Creek:	
Approximately 840 feet upstream of Long Hollow Pike	*490
Approximately 1,060 feet upstream of Long Hollow Pike	*490
Maps available for inspection at the Sumner County Building Planner's Office, 355 North Belvedere Drive, Room 102, Gallatin, Tennessee.	
White House (City), Summer County (FEMA Docket No. D–7522)	
Arterburn Branch:	
At the confluence with Honey Run Creek	*743
Approximately 0.74 mile upstream of the confluence with Honey Run Creek	*769
Jones Branch:	
At the confluence with Honey Run Creek	*743
Approximately 0.7 mile upstream of Tyree Springs Road	*805
Honey Run Creek:	
Approximately 450 feet downstream of U.S. Route 31 West	*712
At the confluence of Jones Branch and Arterburn Branch	*743
Maps avaiable for inspection at the White House Codes Department, 105 College Street, White House, Tennessee.	
WISCONSIN	
Sheboygan (City), Shelboygan County (FEMA Docket No. D-7504)	
Lake Michigan:	
At point approximately 200 feet east of the intersection of Michigan Avenue and Broughton Drive	*590
Approximately 900 feet northeast of the intersection of Indiana Avenue and South Seventh Street	#1
Approximately 1,000 feet northeast of the intersection of North Avenue and North Fifth Street	*587
Maps available for inspection at the Sheboygan City Hall, 828 Center Avenue, Sheboygan, Wisconsin.	
Sheboygan County (Unincorporated Areas) (FEMA Docket No. D–7504)	
Lake Michigan:	
A point approximately 0.8 mile southeast of the intersection of County Trunk Highway KK and Moennig Road	*590
Approximately 1,000 feet east of the intersection of Vaness Road and Pine Beach Road	*587
A point approximately 250 feet east of the intersection of South Pine Beach Road and Stokdyke-Ingelse Road	#1
At the intersection of DeWitt Road and Teronde Beach Road	*584

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Maps available for inspection at the Sheboygan County Planning and Resources Department, 508 New York Avenue, Sheboygan, Wisconsin.	
WEST VIRGINIA	
Capon Bridge (Town), Hampshire County (FEMA Docket No. D–7502)	
Dillons Run:	
At the confluence with the Cacapon River	*814
At a point approximately 2,600 feet upstream of the confluence with the Cacapon River	*814
Cacapon River:	
At a point approximately 2,450 feet downstream of U.S. Route 50	*811
At a point approximately 4,350 feet upstream of U.S. Route 50	*817
Maps available for inspection at the Capon Bridge Town Building, Route 50 East, Capon Bridge, West Virginia.	
Hampshire County (Unincorporated Areas) (FEMA Docket No. D–7502)	
Cacapon River:	
At a point approximately 1.6 miles downstream of U.S. Route 50	*807
At a point approximately 1.9 miles upstream of U.S. Route 50	*820
Big Run:	
At the confluence with the South Branch Potomac River	*680
At a point approximately 475 feet upstream of Grassy Lick Road	*1,057
Dillons Run:	
At a point approximately 2,600 feet upstream of the confluence with the Cacapon River	*814
At a point approximately 2,850 feet upstream of the confluence with the Cacapon River	*814
Green Spring Run:	
At the confluence with North Branch Potomac River	*535
At a point approximately 4.2 miles upstream of Green Spring Valley Road	*649
Little Cacapon River:	
At a point approximately 1.1 miles downstream of Little Cacapon Road	*977
At upstream side of Little Cacapon Road	*1,011
North Fork Little Cacapon River:	
At confluence with Little Cacapon River	*1,011
At a point approximately 1.1 miles upstream of Heide Cooper Road	*1,141
South Fork Little Cacapon River:	
At confluence with Little Cacapon River	*1,011
At a point approximately 1.9 miles up-stream of U.S. Route 50	*1,129
Mill Branch:	
At confluence with Cacapon River	*818
At a point approximately 2.5 miles upstream of U.S. Route 50	*949
North River:	
At a point approximately 7.2 miles downstream of U.S. Route 50	*822
At a point approximately 3.3 miles upstream of U.S. Route 50	*906
South Branch Potomac River:	
Upstream side of the Baltimore & Ohio Railroad bridge	*559
Approximately 2.84 miles upstream of confluence of Big Run	*686
Maps available for inspection at the Hampshire County Courthouse, 66 North High Street, Romney, West Virginia 26757.	
Romney (Town), Hampshire County (FEMA Docket No. D–7502)	
Big Run:	
At a point approximately 225 feet downstream of State Route 28	*738
At a point approximately 0.8 mile upstream of State Route 28	*838
Maps available for inspection at the Romney Town Building, 340 East Main Street, Romney, West Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17269 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determination

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer for each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E. chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified based flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days . The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register.**

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104 and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the

address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environment Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and Recordkeeping requirements

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
PENNSYLVANIA	
(Westmoreland County) township of East Huntingdon, Borough of Scottdale, Township of Mt. Pleasant (FEMA Docket No. D–7526)	
Jacobs Creek:	
At State Route 819	*1,020
A point approximately 0.82 mile upstream of State Route 982	*1,288
Borough of Scottdale (FEMA Docket No. D–7526)	
Stauffer Run:	
Approximately 340 feet upstream of confluence with Jacobs Creek (Lower Reach)	*1,031
Approximately 1,100 feet upstream of State Route 819	*1,039
Township of Mt. Pleasant (FEMA Docket No. D–7526)	
Laurel Run:	
At the confluence with Jacobs Creek	*1,219
Approximately 1,530 feet upstream of Jacobs Creek	*1,244
Township of East Hungingdon, Township of Mt Pleasant (FEMA Docket No. D–7526)	
Shupe Run:	
At the confluence with Jacobs Creek	*1,040
Approximately 42 feet downstream of the CONRAIL bridge	*1,046
Borough of Scottdale	
Maps available for inspection at the Scottdale Borough Municipal Building 10 Mount Pleasant Road, Scottdale, Pennsylvania.	
Township of Mt. Pleasant	
Maps available for inspection at the Mt. Pleasant Township Building, Poker Road, Mammoth, Pennsylvania.	
Township of East Huntingdon	
Maps available for inspection at the East Huntingdon Township Building, Route 981, Alverton, Pennsylvania.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17270 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 18

[ET Docket 98–80; FCC 02–157]

Conducted Emission Limits

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's rules for Radio Frequency (RF) devices to modify the limits on the amount of RF energy that is permitted to be conducted onto alternating current (AC) power lines. These limits protect against interference to licensed radio services operating below 30 MHz. The rule changes also harmonize our domestic requirements with the international standards developed by the International Electrotechnical Commission, International Special Committee on Radio Interference. The Commission believes that such harmonization will benefit consumers and manufacturers by providing better interference protection to licensed radio services as well as promoting a global marketplace for RF devices.

DATES: Effective August 9, 2002.

FOR FURTHER INFORMATION CONTACT: Anh Wride, Office of Engineering and Technology, (202) 418–0577, TTY (202) 418–2989, e-mail: awride@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket 98–80, FCC 02–157, adopted May 23, 2002 and released May 30, 2002. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. It is also available on the Commission's internet site at *www.fcc.gov.* The complete text of this document also may be purchased from the Commission's duplication contractor Qualex International, (202) 863–2893 voice, (202) 863–2898 Fax, *qualexint@aol.com* email, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Summary of Report and Order

1. The Commission is amending parts 15 and 18 of the rules for radio

frequency (RF) devices to modify the limits on the amount of RF energy that is permitted to be conducted onto alternating current (AC) power lines. These limits protect against interference to licensed radio services operating below 30 MHz. The rule changes adopted herein harmonize our domestic requirements with the international standards developed by the International Electrotechnical Commission (IEC), International Special Committee on Radio Interference (CISPR). We believe that such harmonization will benefit consumers and manufacturers by providing better interference protection to licensed radio services as well as promoting a global marketplace for RF devices

2. In the *Notice of Proposed Rule Making* (NPRM), 64 FR 62159, November 16, 1999, the Commission proposed several changes to its regulations for line conducted emissions from parts 15 and 18 devices. It proposed to amend the conducted emission limits for such equipment to make them generally consistent with the international standards specified in IEC/CISPR Publications 11 and 22. The differences between the limits in the rules and the CISPR limits are discussed, in the *NPRM.* The CISPR limits, including the limits on conducted emissions below 450 kHz, would be applied to all part 15 devices, to all induction cooking ranges and ultrasonic equipment operating under part 18, and to all consumer part 18 devices, including microwave ovens. The Commission proposed to provide a transition period of one year for all new part 15 and 18 devices subsequently authorized under a grant of Certification, a Declaration of Conformity, or Verification. It also proposed to require all products, imported or manufactured three years after the effective date of the new rules, to comply with these standards.

3. In addition to the changes to the conducted emission limits, the Commission proposed an alternative measurement procedure for part 15 intentional radiators operating below 30 MHz, e.g., carrier current systems (CCS), which would permit a demonstration of compliance with applicable radiated emission limits instead of conducted limits. The Commission also proposed to clarify § 15.109(e) of its rules to require measurements of radiated emissions below 30 MHz for part 15 unintentional radiators only when the length of the connecting cable carrying the RF signal is either at least one-fourth of the wavelength of the center frequency of the signal, or is of unknown length. Comments were also requested on whether voltage and current limits on RF signals placed on the AC power line could be employed by CCS devices as an optional method of demonstrating compliance with the radiated limits outside of the AM broadcast band.

4. The *Report and Order* adopted changes to the rules for power line conducted emissions to make them more effective in controlling interference to communications services and to reduce the burden of these regulations. Specifically, we are amending the conducted emission limits to make them consistent with international CISPR standards. We are also adopting conducted emission limits for part 18 consumer products, such as microwave ovens, that are currently subject only to radiated emission limits. These limits are consistent with the requirements that already exist for certain types of ISM consumer products, such as ultrasonic denture and jewelry cleaners. Finally, we are establishing transition provisions for implementing the new CISPR limits. Harmonizing our rules with international standards will allow manufacturers to produce products for distribution in several markets without any modification, thus reducing costs. This harmonization will be particularly beneficial to small business entities that have limited resources to maintain separate product lines in order to ensure compliance with region or country-specific requirements. Moreover, this will enhance the value of Mutual Recognition Agreements (MRA) for U.S. manufacturers, thereby promoting the growth and international expansion of U.S. industries.

5. The proposal for an alternative measurement procedure for intentional radiators operating on frequencies below 30 MHz and the request for comments to improve the existing testing methodologies and requirements for intentional RF signals transmitted on power lines drew a number of observations and suggestions. We note that there is substantial development under way of new broadband delivery systems that use power line communication technologies. We also note that the IEC/CISPR I committee has established a Task Group to develop limits and methods of measurements for these new technologies. Therefore, in order to allow for a better informed and more complete decision, we are deferring to a further proceeding the consideration of new limits and measurement procedures for CCS devices. We intend to monitor these activities to ensure that future proposed test procedures and limits are harmonized with international standards and would not create an additional testing burden on manufacturers of such equipment. Pending the adoption of new rules based on the international work, our existing requirements for carrier current systems continue to apply to all such devices.

Harmonization with IEC/CISPR Conducted Emission Limits

6. The Commission observed that considerable work has been done to develop conducted emission standards within the CISPR. Notably, CISPR has developed standards for information technology equipment under CISPR Publication 22, and for industrial, scientific and medical (ISM) equipment under CISPR Publication 11. The Commission also noted that there appears to be growing support by both governments and industry for the harmonization of emission standards internationally to promote trade and competition. Harmonized standards can improve economies of scale and thereby reduce costs, to the benefit of consumers. Harmonized standards also tend to reduce testing costs for products marketed internationally.

Harmonization with CISPR Publication 22 Limits

7. The Commission therefore proposed to apply the limits of CISPR Publication 22 to all Part 15 devices that are currently subject to line conducted emission limits. The Commission noted that the existing part 15 limits are based on quasi-peak measurements, but allow a correction for broadband emissions in order to take into account averaging factors. On the other hand, CISPR Publication 22 specifies separate limits for quasi-peak and average measurements. Adjustments for broadband emissions have already been incorporated into the CISPR limits; therefore, the CISPR quasi-peak limit values are less restrictive than the limits currently in the rules. After taking these factors into account, the CISPR emission limits are slightly more stringent than the current rules below 5 MHz and are approximately equivalent to the current rules above 5 MHz. The Commission noted that, for many years, part 15 has provided the option of complying with either the limits in the rules or the CISPR 22 limits. Due to this practice, many manufacturers' products already comply with the CISPR limits. Therefore, the use of a single set of limits would simplify the rules and promote harmonization, without generally causing an undue burden on manufacturers.

8. The Commission continues to believe that the harmonization of our conducted emission limits in part 15 with the limits in CISPR 22 will foster trade and facilitate the growth of U.S. businesses by reducing costs for manufacturers and consumers. The Commission is adopting the CISPR 22 conducted emission limits for all part 15 equipment that are currently subject to the conducted emissions requirements. See 47 CFR 15.107 and 15.207.

9. We also note that the international CISPR line conducted emission standards include separate limits for equipment used in business/industrial (Class A) and residential (Class B) environments. Such an approach is appropriate, because it takes into account the different characteristics affecting interference in each environment, such as the wider separation distances between equipment which occur in business and commercial environments. We believe that the international standards strike a reasonable balance between the need to establish standards to control interference to broadcasting services in the under 30 MHz region of the spectrum, and the need to avoid placing unnecessary constraints on RF devices and ISM equipment. Therefore, we are retaining the definitions of Class A and Class B digital devices, currently specified in the Commission's rules, as necessary in the public interest.

10. In the NPRM, we remarked that the rules exempt incidental radiators and certain digital equipment from the line conducted emission limits. In particular, exemption from specific emission limits is provided for incidental radiators such as electric motors, hair dryers, washing machines, etc.; digital devices used exclusively as an electronic control of power system used by a public utility or an industrial plant; digital devices used exclusively as industrial, commercial, or medical test equipment; digital devices used in appliances; and specialized medical digital devices. Given the large numbers of incidental radiators that would be affected and the overall lack of interference complaints from such devices, mandatory emission limits are not warranted for these devices. We further find no information or evidence in the record that warrants removing or modifying the existing exemptions at this time. Accordingly, we will retain the exemptions in 47 CFR 15.103, as necessary in the public interest.

11. Harmonization of our rules with the CISPR 22 rules will extend the conducted emission limits from the existing lowest frequency of 450 kHz down to 150 kHz. We find that extending the limits to frequencies below 450 kHz is warranted to protect existing, new, and expanded future uses for this region of the spectrum. While there are several types of radio systems operating below 450 kHz, we are particularly concerned about the potential for harmful interference to licensed radio services that are employed for applications involving safety of life and property, such as the Differential Global Positioning System (DGPS). Several governmental entities, such as the Department of Transportation (DOT), US Coast Guard (USCG) and the Federal Railroad Administration (FRA), are using or planning to deploy navigational systems using DGPS with frequencies between 285 and 325 kHz. Therefore, the Commission believes that the adoption of conducted requirements below 450 kHz will not only provide the benefits of international harmonization, but will protect radio services used by systems providing navigation to safety-of-life transportation operations at sea, in the air, and on land.

Harmonization with CISPR Publication 11 Limits

12. Our existing rules for conducted emission limits for part 18 cover the frequency range from 10 kHz to 30 MHz. See 47 CFR 18.307. The CISPR Publication 11 specifies conducted emission limits from 9 kHz to 30 MHz. In the *NPRM,* we proposed to harmonize the limits in Part 18 with those specified in CISPR 11. The current limits in part 18 are based on average measurements, except those for RF lighting equipment. CISPR 11 specifies separate limits for quasi-peak and average measurements. The CISPR 11 limit values are somewhat comparable to the FCC limits over the frequency range from 150 kHz to 30 MHz. The Commission indicated that, given the international nature of the marketplace, the use of a single set of limits would simplify the rules and promote harmonization, without causing undue burden to manufacturers.

13. The harmonization of our conducted emission limits in part 18 with the limits in CISPR 11 will foster trade, facilitate growth and international expansion of U.S. businesses and reduce costs, to the benefit of manufacturers and consumers. The Commission believes that the adoption of conducted emission limits for all consumer ISM equipment, including microwave ovens, will promote consistency and uniformity with regard to the treatment of these products. We note that the adoption of the CISPR rules in this proceeding is not based on a response to interference issues, but rather, to promote a global market and harmonization of requirements, which will benefit manufacturers and consumers. Accordingly, we are adopting the conducted emission limits in CISPR 11 for part 18 ultrasonic equipment and induction cooking ranges, and for part 18 consumer devices.

14. We further note that CISPR 11 specifies the use of a 50 μH/50 Ohm LISN, which is a Line Impedance Stabilization Network (LISN), an artificial AC power line network that provides a specified load impedance in a given frequency range. It is used to isolate the equipment from the AC supply and to facilitate measurements, for part 18 ultrasonic and induction cooking equipment rather than the 5 μH/50 Ohm LISN previous specified in the rules. CISPR 11 refers to CISPR 16:1999, Figure 7a, for the impedance curve of the LISN to be used in carrying out the measurements against the specified limits. Accordingly, we are modifying the rules to require a 50 μH/50 Ohm LISN with this impedance curve to be used in determining compliance with part 18 conducted emission limits for ultrasonic and induction cooking equipment.

Transition Provisions

15. In the *NPRM,* the Commission proposed to require that all newly authorized part 15 and 18 devices be subject to the new line conducted regulations effective one year from the date of publication of the Report and Order in the **Federal Register**. It also proposed that these new regulations would apply to all part 15 and 18 devices that are imported or manufactured on or after three years from the date of publication of the Report and Order in the **Federal Register**, regardless of when the products were initially authorized. The Commission expressed its belief that most affected products would be redesigned within this three-year time frame in the course of normal product cycles and that compliance with this proposal therefore would not cause an unreasonable burden on industry.

16. While it appears that complying with the new line conducted emission rules will not pose a significant burden on many, if not most, manufacturers, given that they have already modified their products to allow them to trade in Canada and Europe, there are cases where the new rules will have an impact. Inasmuch as there is no evidence of interference problems from part 15 and part 18 devices that comply with the existing line conducted emission limits, we also believe that

extending the transition period for a modest amount of time would not pose serious risks of new interference. Therefore, the Commission will provide an additional one year of transition period for new product models beyond that proposed in the NPRM. Accordingly, we are adopting transition provisions for compliance of part 15 and part 18 devices with the new conducted emission limits as follows: the rules will apply to all new products authorized under parts 15 and 18 of the rules on or after two years from the date of publication of this Report and Order in the **Federal Register** and will apply to all existing products authorized under parts 15 and 18 of the rules that are manufactured or imported on or after three years from that date.

Final Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making (NPRM), 1998 Biennial Regulatory Review—Conducted Emissions Limits Below 30 MHz for Equipment Regulated under Parts 15 and 18 of the Commission's Rules.[2] The Commission sought written public comment on the proposals in the NPRM, including comments on the IRFA. The Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA.[3]

A. Need for, and Objectives of, the Report and Order

18. By this action, the Commission amends parts 15 and 18 of the rules for radio frequency (RF) devices regarding the amount of RF energy that is permitted to be conducted onto the alternating current (AC) power lines. The purpose of the present limits is to protect against interference to radio services operating below 30 MHz. By the rules adopted herein, these limits are harmonized by incorporating the limits of the international standards developed by the International Electrotechnical Commission (IEC), International Special Committee on Radio Interference (CISPR) into the rules.[4] The Commission anticipates that such harmonization will provide better interference protection to licensed radio services as well as promoting a global marketplace for RF devices, thereby reducing costs for manufacturers and consumers. Most manufacturers are already performing testing to the requirements of the international standards on products sold in the U.S. that are also marketed in regions that have adopted the CISPR standards. Therefore, testing to these limits does not represent a significant burden. Harmonization of our rules with the international standards will allow the same product to be manufactured and marketed without modifications in several countries, thereby enabling economies of scale, which would reduce costs. The comments overwhelmingly support our harmonization action.

B. Summary of Significant Issues Raised by Public Comments In Response to the IRFA

19. There were comments on the NPRM, but there were no specific comments addressing small business issues in response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

20. 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, herein adopted.[5] The RFA generally 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 which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[8]

21. The Commission has not developed a definition of small entities applicable to Radio Frequency Equipment Manufacturers (RF Manufacturers). Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of ''Radio and Television Broadcasting and Communications Equipment.'' According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.[9] Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[10] We believe that many of the companies that manufacture RF equipment may qualify as small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

22. Although a large number of Part 15 and Part 18 radio frequency devices are already required to be authorized under the Commission's Certification, Declaration of Conformity, or Verification procedures as a prerequisite to marketing and importation, the adopted rules add a slight amount of new testing and reporting requirements, as explained further:

(a) Microwave ovens are already subject to radiated emission limits in the existing rules.[11] The adopted rules would require microwave ovens and consumer ISM equipment (other than RF lights, induction ranges and ultrasonic equipment) to comply with conducted emission limits.[12]

(b) Induction ranges and ultrasonic equipment are already subject to part 18 conducted emission limits, but with the adopted rules, the low frequency range now starts at 9 kHz instead of the previous 10 kHz.[13]

[1] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] See 1998 Biennial Regulatory Review—Conducted Emission Limits Below 30 MHz for Equipment Regulated under Parts 15 and 18 of the Commission's Rules, ET Docket No. 98–80, Notice of Proposed Rule Making, 14 FCC Rcd 18180 (1999) at 16.

[3] See 5 U.S.C. 604.

[4] The International Special Committee on Radio Interference (CISPR) was established in 1934 by a group of international organizations to address radio interference. CISPR is a non-governmental group composed of National Committees of the International Electrotechnical Commission (IEC), as well as numerous international organizations. The IEC is the international standards and conformity assessment body for all fields of electrotechnology.

[5] See 5 U.S.C. 603(b)(3) and 604(a)(3).

[6] See 5 U.S.C. 601(6).

[7] See 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[8] See 15 U.S.C. 632 (1996).

[9] See 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3663. See also the North American Industry Classification System Codes (NAICS) Code 334220.

[10] See U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued May 1995), SIC category 3663. See also the North American Industry Classification System Codes (NAICS) Code 334220.

[11] See 47 CFR 18.305.

[12] See 47 CFR 18.307. See also, the discussion in ¶ 22 of the R&O.

[13] See discussion in ¶ 23 of the R&O.

(c) Under the adopted rules, measurements for conducted emissions must be made with instrumentation containing both a quasi-peak and an average reading detector.[14]

(d) Under the adopted rules, conducted emissions from part 15 equipment must be measured down to 150 kHz instead of the previous 450 kHz, and measurements must be made with instrumentation containing both a quasi-peak and an average reading detector as well.[15]

23. This slightly increased amount of testing is not a significant burden and will be offset by economies of scale, because harmonization of requirements will allow the same product to be manufactured and marketed without modifications in several countries, thus reducing costs. Furthermore, most part 15 equipment manufacturers already have the option to either comply with CISPR 22 limits or the FCC limits. The adoption of a single set of limits would simplify compliance with the requirements. The harmonization of our rules with international standards will reduce costs for all manufacturers, but it is particularly beneficial to small business entities that will not have to continue to maintain separate product lines in order to ensure their compliance with region-or country-specific regulatory requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. 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 differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[16]

25. The Commission is modifying its rules to harmonize with the international standards developed by the IEC/CISPR. Harmonized requirements improve economies of scale by allowing the same product design to be manufactured without modifications for sale in various countries and thereby reduce costs for products marketed internationally by small businesses. Harmonization of mandatory standards will further benefit small business entities by allowing them to make better use of human and financial resources currently dedicated to maintaining regulatory compliance for products intended for export to separate countries.

26. The Commission originally proposed, in the *NPRM,* a transition period under which the regulations adopted in this proceeding would become effective, for all entities subject to the adopted rules, one year from the date of publication of a Report and Order in the **Federal Register**, for all part 15 and 18 devices subsequently authorized under a grant of Certification, a Declaration of Conformity, or Verification. However, to reduce the burden on small entities within the field of entities subject to the rules, we are adopting a longer transition period, up to two years, for new products, and a transition period of three years for all existing products that continue to be manufactured or imported.[17]

Report to Congress

27. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[18] In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

28. Pursuant to Sections 4(i), 301, 302, 303(e), 303(f), 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), and 303(r), parts 15 and 18 of the Commission's Rules and Regulations ARE AMENDED.

29. The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 15

Communications equipment, Radio.

47 CFR Part 18

Household appliances, Radio, Scientific equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR parts 15 and 18 as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307, 366, and 544A.

2. Section 15.37 is amended by adding paragraph (j), to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(j) All radio frequency devices that are authorized under the certification, verification or declaration of conformity procedures on or after July 12, 2004 shall comply with the conducted limits specified in § 15.107 or § 15.207 as appropriate. All radio frequency devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate, or with the conducted limits that were in effect immediately prior to September 9, 2002.

3. Section 15.107 is amended by revising paragraphs (a), (b), and (c)(2), by removing paragraphs (d) and (e) and by redesignating paragraph (f) as paragraph (d), to read as follows:

§ 15.107 Conducted limits.

(a) Except for Class A digital devices, for equipment that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 150 kHz to 30 MHz shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms line impedance stabilization network (LISN). Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the band edges.

[14] See discussion in ¶¶ 12 and 18 of the R&O.

[15] See discussion in ¶¶ 20–21 of the R&O.

[16] See 5 U.S.C. 603(c)(1)–(c)(4).

[17] See discussion in ¶¶ 24–25 of the R&O.

[18] See 5 U.S.C. 801(a)(1)(A).

Frequency of emission (MHz)	Conducted limit (dBμV)	
	Quasi-peak	Average
0.15–0.5	66 to 56*	56 to 46*
0.5–5	56	46
5–30	60	50

*Decreases with the logarithm of the frequency.

(b) For a Class A digital device that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 150 kHz to 30 MHz shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms LISN. Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the boundary between the frequency ranges.

Frequency of emission (MHz)	Conducted limit (dBμV)	
	Quasi-peak	Average
0.15–0.5	79	66
0.5–30	73	60

(c) * * *

(2) For all other carrier current systems: 1000 μV within the frequency band 535–1705 kHz, as measured using a 50 μH/50 ohms LISN.

* * * * *

4. Section 15.207 is amended by revising paragraph (a), removing paragraph (b), redesignating paragraphs (c) and (d) as (b) and (c), respectively, and by revising newly designated paragraph (b)(2), to read as follows:

§ 15.207 Conducted limits.

(a) Except as shown in paragraphs (b) and (c) of this section, for an intentional radiator that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies, within the band 150 kHz to 30 MHz, shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms line impedance stabilization network (LISN). Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the boundary between the frequency ranges.

Frequency of emission (MHz)	Conducted limit (dBμV)	
	Quasi-peak	Average
0.15–0.5	66 to 56*	56 to 46*
0.5–5	56	46
5–30	60	50

*Decreases with the logarithm of the frequency.

(b) * * *

(2) For all other carrier current systems: 1000 μV within the frequency band 535–1705 kHz, as measured using a 50 μH/50 ohms LISN.

* * * * *

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

5. The authority citation for Part 18 continues to read as follows:

Authority: 47 U.S.C. 4, 301, 302, 303, 304, 307.

6. Section 18.123 is added to Subpart A to read as follows:

§ 18.123 Transition provisions for compliance with the rules.

Consumer ISM devices, induction cooking ranges and ultrasonic equipment that are authorized under the certification, verification or declaration of conformity procedures on or after July 12, 2004 shall comply with the conducted limits specified in § 18.307. All such devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 18.307. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 18.307 or with the conducted limits that were in effect immediately prior to September 9, 2002.

7. Section 18.307 is amended by revising the introductory paragraph, paragraphs (a) and (b), removing the Notes at the end of the section and adding paragraphs (d) through (g) to read as follows:

§ 18.307 Conducted limits.

For the following equipment, when designed to be connected to the public utility (AC) power line the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies shall not exceed the limits in the following tables. Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal using a 50 μH/50 ohms line impedance stabilization network (LISN).

(a) All Induction cooking ranges and ultrasonic equipment:

Frequency of emission (MHz)	Conducted limit (dBμV)	
	Quasi-peak	Average
0.009–0.05	110	—
0.05–0.15	90–80*	—
0.15–0.5	66 to 56*	56 to 46*
0.5–5	56	46
5–30	60	50

*Decreases with the logarithm of the frequency.

(b) All other part 18 consumer devices:

Frequency of emission (MHz)	Conducted limit (dBμV)	
	Quasi-peak	Average
0.15–0.5	66 to 56*	56 to 46*
0.5–5	56	46
5–30	60	50

*Decreases with the logarithm of the frequency.

* * * * *

(d) If testing with a quasi-peak detector demonstrates that the equipment complies with the average limits specified in the appropriate table in this section, additional testing to demonstrate compliance using an average detector is not required.

(e) These conduction limits shall apply only outside of the frequency bands specified in § 18.301.

(f) For ultrasonic equipment, compliance with the conducted limits shall preclude the need to show compliance with the field strength limits below 30 MHz unless requested by the Commission.

(g) The tighter limits shall apply at the boundary between two frequency ranges.

[FR Doc. 02–17264 Filed 7–9–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–2062–02; I. D. 121701A]

RIN 0648–AP69

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries off Alaska; Correction

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

ACTION: Emergency interim rule; correction, and request for comments.

SUMMARY: This document corrects an emergency interim rule implementing Steller sea lion protection measures and 2002 harvest specifications for the Alaska groundfish fishery. These corrections are needed to afford Atka mackerel fishery participants an additional opportunity to register for the 2002 B season harvest limit area fishery in the Aleutian Islands subarea.

DATES: Effective July 10, 2002. Comments must be received on or before 5 p.m., A.l.t., August 9, 2002.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel-Durall, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Supplemental Environmental Impact Statement on Steller Sea Lion Protection Measures in the Federal Groundfish Fisheries Off Alaska (SEIS), including the 2001 biological opinion and regulatory impact review, and the Environmental Assessment (EA) for the Total Allowable Catch for the Year 2002 Alaska Groundfish Fisheries may be obtained from the same address. The SEIS and EA are also available on the NMFS Alaska Region home page at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907–586–7228 or e-mail at *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: The emergency interim rule published January 8, 2002 (67 FR 956), amended and corrected May 1, 2002, (67 FR 21600) and extended May 16, 2002 (67 FR 34860), implements Steller sea lion protection measures and final 2002 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA). As published, the final rule contains errors regarding the registration process for the Atka mackerel harvest limit area (HLA) directed fishery in the Aleutian Islands subarea. This document corrects these errors.

Corrections

This action implements a registration process for the 2002 B season harvest limit area (HLA) directed fishery for Atka mackerel. The Council and NMFS intended that two separate lottery processes would be used, one for each of the A and B season Atka mackerel fisheries in the Aleutian Islands subarea and that vessels would be provided the opportunity to participate in the A and/or B season HLA directed fisheries.

January 15, 2002, is specified in the regulations as the cut off date for registering to participate in the HLA directed fishery. This date was intended to ensure that registration was received in time to perform the lottery for vessel platoon assignments and to notify participants of the results before the A season began on January 20. As the regulatory text is currently written, vessels that were not registered by January 15, 2002, would be excluded from participating in both the A and B season HLA directed fishery. The emergency rule did not address the timing or process for the B season lottery. This omission is being corrected by this action.

In order to conduct a B season lottery for the HLA directed fishery and provide all vessels the opportunity to participate, vessels maintaining their Atka mackerel Federal fisheries permit (FFP) endorsement through July 31 will be entered in the lottery to participate in the B season fishery. Vessels that were not used in the A season Atka mackerel HLA directed fishery but that register under § 679.4(b)(5)(vii) by 4:30 p.m., A. l. t., August 1, 2002, may participate in the lottery for the B season HLA directed fishery, which begins September 1, 2002.

Under § 679.7(a)(19), vessels participating in an HLA directed fishery are restricted from other groundfish fishing during the first directed fishery assignment in the season. If the owner of a vessel that was used in the A season HLA directed fishery wishes to participate in a directed fishery for other groundfish species during the B season HLA directed fishery, the owner must have the FFP amended to remove the Atka mackerel HLA directed fishery endorsement before August 1, 2002. Otherwise, the vessel will be entered into the HLA directed fishery lottery and assigned a platoon for the Atka mackerel B season fishery.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this correction is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this correction is consistent with the Magnuson-Stevens Act and other applicable laws. No relevant Federal rules exist that may duplicate, overlap, or conflict with this action.

This correction has been determined to be not significant for purposes of Executive Order 12866.

Consistent with the National Environmental Policy Act (NEPA), NMFS prepared an environmental assessment (EA) for the total allowable catch specifications portion of the January 8, 2002, emergency interim rule. NMFS also prepared a supplemental environmental impact statement (SEIS) for the Steller sea lion protection measures; a notice of availability of the draft SEIS was published in the **Federal Register** on August 31, 2001 (66 FR 45984). Comments were received and responded to in the final SEIS and the final document was issued November 23, 2001 (66 FR 58734). The final SEIS and EA are available from NMFS (see **ADDRESSES**). Based on a comparison of the effects of the other alternatives in the SEIS, NMFS determined that this action meets the Endangered Species Act (ESA) requirements for Steller sea lion protection and environmental protection without providing extreme economic hardship that was anticipated from the most environmentally desirable alternative. Potential adverse impacts on marine mammals resulting from fishing activities conducted under the emergency interim rule (67 FR 956, January 8, 2002) are discussed in the EA and final SEIS. The correction in this action is within the scope of these NEPA analyses.

A formal section 7 consultation under the ESA was initiated for the emergency interim rule (67 FR 956, January 8, 2002) under the FMPs for the groundfish fisheries of the BSAI and the GOA. In a biological opinion dated October 17, 2001, the Director of the Office of Protected Resources determined that fishing activities conducted under the Steller sea lion protection measures implemented by the emergency interim rule (67 FR 956, January 8, 2002) are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In a memorandum dated December 11, 2001, from the Office of Protected Resources to the Office of Sustainable Fisheries, biological opinions dated December 22, 1999, and December 23, 1999, were extended for 1 year from January 1, 2002, for purposes of the harvest specifications implemented by the January 8, 2002 emergency interim rule. This correction is consistent with the objectives for Steller sea lion protection measures implemented in 2002, the ESA, and other applicable laws, and will not affect listed species or critical

habitat in any manner not previously evaluated in prior consultations.

By this action, NMFS is correcting the Steller sea lion protection measures which have been in effect since January 1, 2002, for the BSAI and GOA. This correction clarifies the requirements for registration in the Atka mackerel HLA directed fishery for the B season starting September 1, 2002. Registration for this fishery must be completed by August 1, 2002, to allow NMFS to conduct the lottery and to notify participants of results before the start of the fishery. Because delay in implementing this correction would unnecessarily limit opportunity for participation in the Atka mackerel HLA directed fishery, it is impracticable to provide prior notice and an opportunity for public comment and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3). For the same reasons, a delay in the effective date is hereby waived pursuant to 5 U.S.C. 553(d)(3). Because prior notice and opportunity for public comment are not required for this correction to the emergency interim rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 1, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554.

2. In § 679.20, paragraphs (a)(8)(iii) and (a)(8)(iii)(A) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(8) * * *

(iii) *Platoon management of Atka mackerel harvest limit area directed fishing* (applicable through December 31, 2002)—(A) *Registration.* All vessels using trawl gear for directed fishing for Atka mackerel in the HLA, as defined in § 679.2, are required to register with NMFS. To register, the vessel owner or operator must provide information required by § 679.4(b)(5)(vii) for an endorsement to the vessel's Federal fishery permit issued under § 679.4.

(*1*) To participate in the A season HLA fishery, registration information must be received by NMFS, Restricted Access Management Program, by 4:30 p.m., A.l.t., on the first working day following January 15, 2002.

(*2*) To participate in the B season HLA fishery,

(*i*) The vessel must be registered for the A season HLA fishery and must be registered for the HLA fishery through August 1, 2002, or

(*ii*) Registration information for the HLA fishery must be received by NMFS, Restricted Access Management Program, by 4:30 p.m., A.l.t., August 1, 2002.

* * * * *

[FR Doc. 02–17045 Filed 7–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 070502A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 7, 2002, through 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 TAC of Pacific ocean perch for the Eastern Aleutian District was established as 3,201 metric tons (mt) by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 TAC for Pacific ocean perch in the Eastern Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,951 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the 2002 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 50 CFR 679.20(b)(3)(iii)(A). These procedures are unnecessary and contrary to the public interest because the need to implement these measures in a timely fashion to avoid exceeding the 2002 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 5, 2002.

Virginia M. Fay,

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

[FR Doc. 02–17329 Filed 7–5–02; 2:21 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 132
Wednesday, July 10, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–13–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34–8C1 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to General Electric Company CF34–8C1 turbofan engines, that would require revisions to the Airworthiness Limitations Section (ALS) of the manufacturer's Instructions for Continued Airworthiness (ICA) to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This proposal would also require an air carrier's approved continuous airworthiness maintenance program to incorporate these inspection procedures. Air carriers with an approved continuous airworthiness maintenance program would be allowed to either maintain the records showing the current status of the inspections using the record keeping system specified in the air carrier's maintenance manual, or establish an acceptable alternate method of record keeping. This proposal is prompted by the need to require enhanced inspection of selected critical life-limited parts of CF34–8C1 turbofan engines at each piece-part exposure. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by September 9, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–13–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.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–13–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–13–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several failure mode root causes that can result in serious safety hazards to transport category airplanes. That study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that initiated and propagated to failure. Cracks can originate from causes such as unintended excessive stress from original design or they may initiate from stresses induced from material flaws, handling damage, or damage from machining operations. Failure of rotating parts presents a significant safety hazard to the airplanes by releasing high-energy fragments that could injure passengers or crew by penetrating the cabin, damaging flight control surfaces, severing flammable fluid lines, or otherwise compromising the airworthiness of the airplane.

Intervention Strategy

The FAA has developed an intervention strategy to significantly reduce uncontained engine failures. The intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. The intervention strategy involves enhanced, nondestructive inspections of the rotating parts that could most likely result in a safety hazard to the airplane in the event of a fracture.

Future Rulemaking

The need for additional rule making is also being considered by the FAA. Future AD's may be issued introducing additional intervention strategies to further reduce or eliminate uncontained engine failures.

Safety Critical Parts and Inspection Methods

Properly focused enhanced inspections require identifying the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The FAA, with the close cooperation of the engine manufacturers, has completed a detailed analysis identifying the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high-energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. As a result of this proposed AD, the inspections currently recommended by the manufacturer will become mandatory for those parts listed in the compliance section. Furthermore, the FAA intends that additional mandatory enhanced inspections resulting from this proposed AD will serve as an adjunct to the existing inspections. The FAA has determined that the enhanced inspections will significantly improve the probability of crack detection while the parts are disassembled during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Manual.

Part 121 Operators

This proposed AD would allow for 14 CFR part 121 air carriers having an FAA-approved continuous airworthiness maintenance program, and for entities that these air carriers use to do this maintenance, to verify performance of the enhanced inspections. This is done by retaining the maintenance records that include the inspections resulting from this proposed AD. However, these records must include the date and signature of the person performing the maintenance action. These records would be retained with the maintenance records of the part, engine module, or engine until the inspection is repeated. This will establish a method of record preservation and retrieval typical to those in existing continuous airworthiness maintenance programs. Instructions would be included in an air carrier's maintenance manual providing procedures for implementation and integration of this record preservation and retrieval system into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an authorized FAA-certificated entity and that are acquired by an operator after the effective date of the proposed AD, the mandatory enhanced inspections would not be required until the next piece-part opportunity. For example, there is no need for an operator to disassemble to piece-part level an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with the proposed AD. Furthermore, the FAA intends for operators to perform the proposed enhanced inspections of these parts at the next piece-part opportunity following the initial acquisition, installation, and removal of the part following the effective date of the proposed AD. For piece parts that have not been approved for return to service before the effective date of the proposed AD, the FAA does intend that the mandatory enhanced inspections required by the proposed AD be performed before such parts are approved for return to service. Piece parts that have been approved for return to service before the effective date of the proposed AD could be installed; however, enhanced inspection would be required at the next piece-part opportunity.

Proposed Actions

This proposal would require, within the next 30 days after the effective date of the proposed AD, revisions to the Time Limits Section (TLS) in the GE CF34–8C1 Turbofan Engine Manual, and, for air carriers, revisions to the approved continuous airworthiness maintenance program. GE, the manufacturer of CF34–8C1 turbofan engines used on 14 CFR part 25 airplanes, has provided the FAA with a detailed proposal that identifies and prioritizes the critical life-limited rotating engine parts with the highest potential to hazard the airplane in the event of failure, along with instructions for enhanced, focused inspection methods. The enhanced inspections resulting from the proposed AD would be conducted at piece-part opportunity, as defined below in the compliance section, rather than specific time inspection intervals.

Economic Analysis

There are approximately 26 engines of the affected design in the worldwide fleet. The FAA estimates that 26 engines installed on airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 75 work hours per engine to accomplish the proposed actions. The average labor rate is $60 per work hour. Using average shop visitation rates, 5 engines are expected to be affected per year. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be $22,500 per year.

Regulatory Analysis

This proposed 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 proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 2002–NE–13–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE)

CF34–8C1 turbofan engines. These engines are installed on, but not limited to Bombardier Aerospace CRJ700 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

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

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Within the next 30 days after the effective date of this AD, revise the Time Limits Section (TLS) of the manufacturer's Engine Manual (EM), GEK 105091 and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

''MANDATORY INSPECTIONS

(1) Perform inspections of the parts listed in the following Table 805 at each piece-part opportunity in accordance with the instructions provided in the applicable manual provisions:

TABLE 805.—MANDATORY INSPECTION REQUIREMENTS

Part Nomenclature	Manual/Chapter Section/Subject	Mandatory Inspection
Fan Disk	72–21–15, INSPECTION	All areas (FPI),[1], Bores (ECI).[2]
Fan Drive Shaft	72–22–00, INSPECTION	All areas (FPI).[1]
Stage 1 High Pressure Turbine (HPT) Rotor Disk.	72–51–06, INSPECTION	All areas (FPI)[1], Bores (ECI)[2], Boltholes (ECI)[2], Air Holes (ECI).[2]
HPT Rotor Outer Torque Coupling	72–51–10, INSPECTION	All areas (FPI)[1], Bores (ECI).[2]
Stage 2 HPT Rotor Disk	72–51–14, INSPECTION	All areas (FPI)[1], Bores (ECI).[2]
HPT Shaft	72–51–03, INSPECTION	All areas (FPI).[1]
Stage 1 and Stage 2 High Pressure Compressor (HPC) Rotor Blisks.	72–33–01, INSPECTION	All areas (FPI).[1]
HPC Forward Shaft	72–33–02, INSPECTION	All areas (FPI).[1]
Stage 3 HPC Rotor Blisk	72–33–03, INSPECTION	All areas (FPI).[1]
HPC Aft Shaft Spool	72–33–05, INSPECTION	All areas (FPI).[1]
HPC Discharge Rotating Seal	72–33–08, INSPECTION	All areas (FPI).[1]
Stage 3 Low Pressure Turbine (LPT) Rotor Disk.	72–57–10, INSPECTION	All areas (FPI).[1]
Stage 4 LPT Rotor Disk	72–57–16, INSPECTION	All areas (FPI).[1]
Rear LPT Shaft	72–57–23, INSPECTION	All areas (FPI).[1]
Stage 5 LPT Rotor Disk	72–57–20, INSPECTION	All areas (FPI).[1]
Stage 6 LPT Rotor Disk	72–57–28, INSPECTION	All areas (FPI).[1]

[1] FPI = Fluorescent Penetrant Inspection Method
[2] ECI = Eddy Current Inspection Method

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered at ''piece-part opportunity'', when it is completely disassembled in accordance with the disassembly instructions in the manufacturer's engine manual; and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLS of the GE CF34–8C1 EM.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector (PMI), 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

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

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)) must maintain records of the mandatory inspections that result from revising the CF34 Engine Maintenance Program and the air carrier's continuous airworthiness program. Alternatively, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)). However, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380 (a) (2) (vi) of the Federal Aviation Regulations (14 CFR 121.380 (a) (2) (vi)). All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the Engine Maintenance Program requirements specified in the GE CF34–8C1 Engine Manual.

Issued in Burlington, Massachusetts, on July 1, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–17297 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–13–AD]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. FMC–4200, FMC–5000, and FMC–6000 Flight Management Computers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Rockwell Collins, Inc. (Rockwell Collins) FMC–4200, FMC–5000, and FMC–6000 flight management computers (FMC) that are installed on airplanes. This proposed AD would require you to have the FMC modified to correct a problem with the flight management system (FMS) accepting new information when an existing procedure or flight plan is changed. This proposed AD is the result of a report that an aircraft proceeded beyond the published altitude constraint on an arrival procedure. The actions specified by this proposed AD are intended to prevent the FMC from retaining and displaying original altitude constraints when an edit or a replacement is made to a procedure or flight plan that shares a waypoint with another procedure or an airway, and there is an altitude constraint on the shared waypoint. Such a condition could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 6, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–13–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2000–CE–13–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498; telephone: (319) 295–2512; facsimile: (319) 295–5064. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–13–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The FAA received a report of an incident that occurred during a flight arriving in Toronto, Ontario. A change in the flight management computer (FMC) had been made to the original flight plan changing the altitude constraint to 8,000 feet—11,000 feet. However, the flight management system (FMS) retained the altitude constraint of the original flight plan of 10,000 feet—14,000 feet. The pilot was unaware of this situation occurring, which resulted in the descent of the airplane to proceed beyond the published altitude constraint on the arrival procedure.

When the FMC is operating correctly and a change is made, the FMS allows the pilot to delete information associated with a procedure or flight plan by deleting the procedure or by replacing the procedure.

Rockwell Collins FMC–4200, FMC–5000, and FMC–6000 flight management computers could be installed on, but not limited to, the following aircraft:

—Raytheon Model Beechjet 400A and Model 400T (T–1A) airplanes;
—Bombardier Model CL–600–2B19 Regional Jet Series 100 airplanes; and
—Bombardier Model CL–600–2B16 (variant CL–604) airplanes.

What are the consequences if the condition is not corrected? As described above, such erroneous altitude constraints retained by the FMS could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

Is there service information that applies to this subject? Rockwell Collins has issued the following service bulletins:

—Service Bulletin 15, Revision No. 1 (FMC–4200/5000/6000–34–15), dated November 15, 2000;
—Service Bulletin 502 (FMC–3000/4200–34–502), dated February 17, 2000;
—Service Bulletin 504, Revision No. 1 (FMC–4200/6000–34–504), dated March 26, 2001; and
—Service Bulletin 507 (FMC–6000–34–507), dated April 4, 2001.

What are the provisions of this service information? These service bulletins include procedures for modifying the FMC software in order to resolve the select altitude problem.

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

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on type design aircraft that incorporate a Rockwell Collins FMC–4200, FMC–5000, or FMC–6000 flight management computer;
—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to have the FMC modified to allow the FMS to accept new information when changing an existing procedure or flight plan.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that 700 affected Rockwell Collins FMC–4200, FMC–5000, and FMC–6000 flight management computers could be installed on airplanes in the U.S. registry. Some airplanes have more than one unit installed.

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

Labor cost	Parts cost	Total cost per FMC unit
4 workhours per FMC unit × $60 per hour = $240	$500 per FMC unit	$740

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is ''within the next 24 calendar months after the effective date of this AD, unless already accomplished.''

Why is the proposed compliance time presented in calendar time instead of hours time-in-service (TIS)? The compliance of this proposed AD is presented in calendar time instead of hours TIS because the condition exists regardless of airplane operation. The FMS retention of invalid altitude constraint information could occur regardless of the number of times and hours the airplane was operated. For these reasons, FAA has determined that a compliance based on calendar time should be utilized in this proposed AD in order to ensure that the unsafe condition is addressed in a reasonable time period on all airplanes that have an affected Rockwell FMC–4200, FMC–5000, or FMC–6000 flight management computer installed.

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rockwell Collins, Inc.: Docket No. 2000–CE–13–AD.

(a) *What airplanes are affected by this AD?* This AD affects Rockwell Collins FMC–4200, FMC–500, and FMC–6000 flight management computers (FMC) that are installed on, but not limited to, the following aircraft that are certificated in any category:

(1) Raytheon Model Beechjet 400A and Model 400T (T–1A) airplanes;

(2) Bombardier Model CL–600–2B19 Regional Jet Series 100 airplanes; and

(3) Bombardier Model CL–600–2B16 (variant CL–604) airplanes.

(b) *Who must comply with this AD?* Anyone who wishes to operate an aircraft equipped with one of the affected FMCs must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the FMC from retaining original information when an edit is made to a procedure or flight plan. Such a condition could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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

Actions	Compliance	Procedures
(1) Modify the flight management computer	Within the next 24 calendar months after the effective date of this AD.	Use the applicable service information as specified in paragraph (e) of this AD.
(2) Do not install, on any aircraft, an affected FMC that has not been modified as required by paragraph (d)(1) of this AD.	As of the effective date of this AD	Not applicable.

(e) *What service information do I use to accomplish the procedures required in paragraph (d)(1) of this AD?* The service bulletins required to accomplish these actions are as follows:

FMC affected	Applicable service bulletin
FMC–4200	Rockwell Collins Service Bulletin 502 (FMC–3000/4200–34–502), dated February 17, 2000, or Rockwell Collins Service Bulletin 504, Revision No. 1 (FMC–4200/6000–34–504), dated March 26, 2001.
FMC–5000	Rockwell Collins Service Bulletin 15, Revision No. 1 (FMC–4200/5000/6000–34–15), dated November 15, 2000.
FMC–6000	Rockwell Collins Service Bulletin 504, Revision No. 1 (FMC–4200/6000–34–504), dated March 26, 2001, or Rockwell Collins Service Bulletin 507 (FMC–6000–34–507), dated April 4, 2001.

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

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

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: 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 (f) 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.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov*.

(h) *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.

(i) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 3, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17307 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–11–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–200 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney (PW) JT8D–200 series turbofan engines. This proposal would require the installation of stops on the fan exit guide vane case. This proposal is prompted by reports of the flange between the fan duct case and the fan exit guide vane case separating due to a fan blade fracture event. The actions specified by the proposed AD are intended to prevent the flange between the fan duct case and the fan exit guide vane case from separating due to a fan blade failure. Separations of that flange could result in damage to the airplane.

DATES: Comments must be received by September 9, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–11–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 the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–11–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–11–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA has received reports of the flange between the fan duct case and the fan exit guide vane case separating due to fan blade fracture events on PW JT8D–209, –217, –217A, –217C, and ''219 series turbofan engines. This proposal would require a one-time installation of stops on engines that do not incorporate a fan exit guide vane case and fan duct assembly with improved durability and impact resistance, part number 805919 or 815377. This proposal is prompted by a number of reports of fan case flange separation, one of which occurred in July 2001 when a JT8D powered MD–80 was required to make an emergency landing after experiencing a fan blade fracture, resulting in fan case flange separation and high aircraft vibrations. The actions specified by the proposed AD are intended to prevent the flange between the fan duct case and the fan exit guide vane case from separating due to a fan blade failure. This condition, if not corrected, could result in damage to the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of PW JT8D–200 Series Service Bulletin No. 6100, Revision 2 dated December 9, 1998. That SB describes the procedures for installing stops on the fan exit guide vane case, to restrict axial separation of the case in the event of a case fracture.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT8D–209, –217, –217A, –217C, and ''219 series turbofan engines, the proposed AD would require installation of stops on the fan exit guide vane case at the next shop visit in accordance with PW SB No. 6100, Revision 2, dated December 9, 1998.

Economic Analysis

There are approximately 1,346 PW JT8D–200 series engines of the affected design in the worldwide fleet. The FAA estimates that 821 engines installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 1.5 work hours per engine to perform the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $5,200 per engine. Based on these figures, the total cost of the proposed AD to U.S. operators is estimated to be $4,343,090.

Regulatory Analysis

This proposed 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 proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney: Docket No. 2002–NE–11–AD.

Applicability

This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 series turbofan engines that do not incorporate the fan exit guide vane case and fan duct assembly with improved durability and impact resistance, part numbers 805919 or 815377. These engines are installed on, but not limited to McDonnell Douglas MD–80 and 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required, unless already done.

To prevent the flange between the fan duct and the fan exit guide vane from separating due to a fan blade failure, which could result in damage to the airplane, do the following:

Installation of Hardware

(a) At the next shop visit after the effective date of this AD, install stops on the fan exit guide vane case in accordance with paragraphs 2.A. through 2.C.(1) of the Accomplishment Instructions of PW JT8D–200 Series SB No. 6100, Revision 2, dated December 9, 1998.

Definitions

(b) For the purposes of this AD, a shop visit is defined as an engine removal, where engine maintenance entails separation of pairs of major mating engine flanges or the removal of a disk, hub, or spool at a maintenance facility that is capable of compliance with the instructions of this AD, regardless of other planned maintenance.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Burlington, Massachusetts, on July 1, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–17296 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–08]

Proposed Modification of Class E Airspace; Circleville, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Circleville, OH. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 23, has been developed for Ross County Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action would increase the area of the existing controlled airspace at Pickaway County Memorial Airport, by adding a radius of controlled airspace around Ross County Airport.

DATES: Comments must be received on or before August 24, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–08, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–08.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Circleville, OH, by adding a radius of controlled airspace around the Ross County Airport, thus increasing the existing Class E airspace area for Pickaway County Memorial Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 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 designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL OH E5 Circleville, OH [Revised]

Circleville, Pickaway County Airport, OH
(Lat. 39°30′58″ N., long. 82°58′56″ W.,)
Chillicothe, Ross County Airport, OH
(Lat. 39°26′29″N., long. 83°01′21″ W.,)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Pickaway County Memorial Airport, and within a 9.1-mile radius of Ross County Airport, excluding that airspace within the Waverly, OH Class E Airspace area.

* * * * *

Issued in Des Plaines, Illinois on June 19, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–17370 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–123305–02]

Loss Limitation Rules; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to proposed rulemaking.

SUMMARY: This document contains a correction to REG–123305–02, which was published in the **Federal Register** on Friday, May 31, 2002 (67 FR 38040), relating to loss limitation rules.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under sections 337 and 1502 of the Internal Revenue Code.

Need for Correction

As published, REG–123305–02 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–123305–02), which is the subject of FR Doc. 02–13575, is corrected as follows:

1. On page 38040, column 1, line four of the heading, the regulation number ''[REG–102305–02]'' is corrected to read ''[REG–123305–02]''.

2. On page 38040, column 2, in the preamble under the caption **ADDRESSES:**, line 2, the language ''CC:ITA:RU (REG–102740–02), room'' is corrected to read ''CC:ITA:RU (REG–123305–02), room''.

3. On page 38040, column 2, in the preamble under the caption **ADDRESSES:**, lines 7 and 8, the language ''between the hours of 8 a.m. and 6 p.m. to CC:ITA:RU (REG–102740–02),'' is corrected to read ''between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (REG–123305–02),''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02–17333 Filed 7–9–02; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095–AB14

Researcher Identification Cards

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA is proposing to revise the general regulations concerning availability of records and donated historical materials to change the time period researcher identification cards are valid. NARA proposes to reduce the valid time period to increase NARA's ability to obtain accurate address and telephone information. This will allow NARA to contact researchers if necessary and will ensure better protection of NARA's holdings, buildings, personnel, and the public. This proposed rule will affect individuals who do research in archival materials at NARA facilities.

DATES: Comments are due by September 9, 2002.

ADDRESSES: Comments must be sent to Regulation Comment Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–837–0319. You may also comment via the Internet to *comments@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Jennifer Davis Heaps on 301–837–1801 or fax 301–837–0319, or *comments@nara.gov*.

SUPPLEMENTARY INFORMATION: Individuals who conduct research in original archival materials at NARA facilities must complete a researcher application form in person and be issued a researcher identification card. The current time period that these cards are valid is three years. Many of NARA's researchers are short-time visitors to one or more of its facilities. Over 90 percent of the respondents complete the application on a one-time basis for a specific research project. NARA proposes to reduce the valid time period to one year to increase NARA's ability to contact researchers if necessary and to ensure better protection of NARA's holdings, buildings, personnel, and the public. The information collection in § 1254.6, researcher identification application form, is subject to the Paperwork Reduction Act. The Office of Management and Budget (OMB) has assigned 3095–0016 as the control number for this information collection.

Please submit Internet comments within the body of your email message or as an attachment. Please also include ''Attn: 3095–AB14'' and your name and return address in your Internet message. If you do not receive notification that we have received your Internet message, contact the Regulation Comment Desk at 301–837–1801.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this proposed rule will not have a significant impact on a substantial number of small entities because it applies only to individuals. This proposed rule has no federalism or tribalism implications.

List of Subjects in 36 CFR Part 1254

Archives and records, Confidential business information, Freedom of information, Micrographics.

For the reasons set forth in the preamble, NARA proposes to amend part 1254 of title 36 of the CFR as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101–2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Revise § 1254.6(a) to read as follows:

§ 1254.6 Researcher identification card.

(a) An identification card is issued to each person whose application is approved to use records other than microfilm. Cards are valid for 1 year and may be renewed upon application.

Cards issued at one NARA facility are valid at each facility, except as described in paragraph (b) of this section. They are not transferable and must be presented if requested by a guard or research room attendant.

* * * * *

Dated: July 1, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02–17291 Filed 7–9–02; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP No. SD–001–0015; FRL–7243–8]

Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and announcement of South Dakota NSPS delegation.

SUMMARY: On June 30, 2000, the State of South Dakota submitted a request for delegation of the New Source Performance Standards (NSPS) and requested that the NSPS be removed from the State Implementation Plan (SIP). Through this **Federal Register** notice, EPA is announcing that on April 2, 2002 we delegated to the State of South Dakota the authority to implement and enforce the NSPS program.

Since the State has been delegated the authority to implement and enforce the NSPS program, we are proposing to remove the NSPS sections from the SIP. EPA is also proposing updates to the NSPS ''Delegation Status of New Source Performance Standards'' table.

These actions are being taken under sections 110 and 111 of the Clean Air Act. Other parts of the June 30, 2000 submittal will be acted on in a separate notice.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski , EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used means EPA.

I. Announcment of South Dakota NSPS Delegation

EPA is announcing that on April 2, 2002, pursuant to section 111(c) of the Clean Air Act, the Agency delegated the authority to the State of South Dakota to implement and enforce the NSPS program for all areas within the State except for lands located within formal Indian reservations within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation, any land held in trust by the United States for an Indian tribe; and any other areas which are ''Indian Country'' within the meaning of 18 U.S.C. 1151.

A. January 25, 2002, Letter of Delegation

Chapter 74:36:07 is the rule that the State uses to implement our NSPS promulgated at 40 CFR part 60. On January 25, 2002, we issued a letter delegating the authority to implement and enforce the NSPS. The categories of new stationary sources covered by this delegation are as follows: NSPS subparts A, D, Da, Db, Dc, Ea, XX, AAA, SSS and WWW in 40 CFR part 60, as in effect on July 1, 1999; NSPS subparts Eb, Ec, Kb, and OOO in 40 CFR part 60, as in effect on July 1, 1998; NSPS subparts F, VV, NNN, and RRR, in 40 CFR part 60, as in effect on July 1, 1996; and NSPS subparts E, I, K, Ka, O, Y, DD, GG, HH, LL, QQ, RR, JJJ and UUU as in effect on July 1, 1995.

The January 25, 2002 letter of delegation to the State follows:

Honorable Bill Janklow,
Governor of South Dakota, State Capitol, Pierre, South Dakota 57501

Dear Governor Janklow: On June 30, 2000 the State submitted revisions to the New Source Performance Standards (NSPS) rules in the Administrative Rules of South Dakota (ARSD) 75:36:07. Specifically, the State revised its NSPS to update the citation of the incorporated Federal NSPS, as appropriate. In addition, the State requested that the NSPS chapter, ARSD 75:36:07, which had been approved into the South Dakota State Implementation Plan (SIP), be removed from the SIP and delegated to the State.

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

(A) Responsibility for all sources located, or to be located, in the State of South Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are NSPS subparts A, D, Da, Db, Dc, Ea, XX, AAA, SSS and WWW in 40 CFR part 60, as in effect on July 1, 1999; NSPS subparts Eb, Ec, Kb, and OOO in 40 CFR part 60, as in effect on July 1, 1998; NSPS subparts F, VV, NNN, and RRR, in 40 CFR part 60, as in effect on July 1, 1996; and NSPS subparts E, I, K, Ka, O, Y, DD, GG, HH, LL, QQ, RR, JJJ and UUU as in effect on July 1, 1995.

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

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

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of March 25, 1976, to the Honorable Richard F. Kneip, then Governor of South Dakota, except that condition 3, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 1. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 6. EPA published its March 25, 1976 delegation letter in the notices section of the April 27, 1976 **Federal Register** (41 FR 17500), along with an associated rulemaking notifying the public

that certain reports and applications required from operators of new or modified sources shall be submitted to the State of South Dakota (41 FR 17549). Copies of the **Federal Register** notices are enclosed for your convenience.

EPA is approving South Dakota's request for NSPS delegation for all areas within the State except for land within formal Indian reservations located within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation, any land held in trust by the United States for an Indian tribe; and any other areas which are ''Indian Country'' within the meaning of 18 U.S.C. 1151.

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

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

Sincerely yours,

Jack W. McGraw,

Acting Regional Administrator.

Enclosures.

cc: Steve Pirner, Secretary, Department of Environment and Natural Resources.

Enclosure to Letter Delegating NSPS in 40 CFR part 60, to the State of South Dakota

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

40 CFR Subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6)
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(e).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).

B. State's Response to January 25, 2002 Letter

On February 5, 2002, Charles McGuigan, South Dakota Assistant Attorney General, sent a letter to EPA regarding our January 25, 2002 NSPS delegation letter. The February 5, 2002 letter, sent on behalf of the Office of the Attorney General and the Department of Environment and Natural Resources, objected to EPA's approval of South Dakota's NSPS delegation for all areas within the State except for land within formal Indian reservations, ''any land held in trust by the United States for an Indian tribe'' and any other areas which are ''Indian Country'' defined by 18 U.S.C. 1151.'' Specifically, the State disagreed that all tribal trust lands in South Dakota are within the definition of Indian country. Additionally, the State's February 5, 2002 letter indicated that ''to the extent that your letter exceeds the definition of Indian country as determined by the Eighth Circuit Court of Appeals, South Dakota objects to your delegation letter.''

C. EPA's Response to the State's February 5, 2002 letter

On February 25, 2002, we responded to the State's February 5, 2002 letter indicating that since the State's February 5, 2002 letter was an objection to the NSPS delegation, the State was not delegated the authority to implement and enforce the NSPS regulations at that time and that EPA would address the delegation in a future letter.

In an April 2, 2002 letter to the State, EPA explained that tribal trust lands are Indian country as defined at 18 U.S.C. 1151 under the Clear Air Act and federal Indian law and that we properly excluded tribal trust and other Indian country lands from the delegation. In the April 2, 2002 letter, EPA again delegated the NSPS program to the State. The April 2, 2002 letter is as follows:

Mr. Steven M. Pirner

Secretary, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501,

Re: *South Dakota New Source Performance Standards*

Dear Secretary Pirner: On June 30, 2000 the State of South Dakota requested delegation of new New Source Performance Standards (NSPS) rules under the Clean Air Act (''CAA'' or ''Act''). On January 25, 2002, EPA delegated authority to the State, pursuant to section 111(c) of the Act, to implement and enforce the NSPS program for all areas within the State except for formal Indian reservations, any land held in trust by the United States for an Indian tribe and any other areas which are Indian country within the meaning of 18 U.S.C. 1151. The State's Office of the Attorney General sent a letter to EPA on February 5, 2002 objecting to the Agency's decision to exclude from the State's program ''any land held in trust by the United States for an Indian tribe.'' EPA responded on February 25, 2002 that due to the State's objection, the authority to implement and enforce the NSPS regulations was not currently delegated and that EPA would address the State's concern in future correspondence.

EPA has determined that it is appropriate to maintain the exclusionary language cited in the January 25, 2002 delegation of the South Dakota NSPS program because tribal trust lands are reservations under the CAA and Indian country under 18 U.S.C. 1151 and are thus properly excluded from the Section 111(c) delegation. The following is a discussion of the legal basis for EPA's position that lands held in trust for a tribe which are located outside the boundaries of a formally-designated Indian reservation are within the definition of ''reservation'' under the CAA and are Indian country under 18 U.S.C. 1151.

I. The Court of Appeals for the District of Columbia Has Upheld EPA's Position That Tribal Trust Lands are Within the Definition of ''Reservation'' Under the CAA.

On February 12, 1998, EPA promulgated a rule entitled, ''Indian Tribes: Air Quality Planning and Management'' (''Tribal Authority Rule'' or ''TAR''), 63 FR 7254 (Feb. 12, 1998). The Tribal Authority Rule set forth EPA's position that for purposes of Clean Air Act programs, the term ''reservation,'' in addition to formally designated Indian reservations, also includes trust lands that have been validly set apart for the use of a tribe even though the land has not been formally designated as a reservation. 63 FR at 7257–58. Under Section 307(b)(1) of the CAA, parties challenging the Tribal Authority Rule were required to raise their objections to the U.S. Court of Appeals for the DC Circuit within sixty days of EPA's final rulemaking decision.[1]

Several industry groups and the State of Michigan challenged EPA's Tribal Authority Rule in the U.S. Court of Appeals for the District of Columbia. *Arizona Public Service Company* v. *EPA,* 211 F.3d 1280 (D.C. Cir. 2000), *cert. denied sub nom., Michigan* v. *EPA,* 532 U.S. 970 (2001). One of the issues addressed by the D.C. Circuit was whether EPA properly construed the term ''reservation'' to include tribal trust lands and Pueblos.[2] The Court described both EPA's position that ''reservation'' includes tribal trust lands and Pueblos and EPA's decision that case-by-case determinations of whether lands fall within the Act's definition of ''reservation'' will be reserved for types of lands other than tribal trust lands and Pueblos. *Id.* at 1285,1294.

The D.C. Circuit noted that the CAA does not define ''reservation'' for the purposes of tribal regulation. In determining that the statute itself is ambiguous, the Court found support for EPA's position in both the plain meaning of the word ''reservation'' and the context in which the term is used.[3] The Court then held that EPA reasonably interpreted the term ''reservation'' to include formal reservations, Pueblos and tribal trust lands:

> In light of the ample precedent treating trust land as reservation land in other contexts, and the canon of statutory interpretation calling for statutes to be interpreted favorably towards Native American nations, we cannot condemn as unreasonable EPA's interpretation of ''reservations'' to include Pueblos and tribal trust land.

Id. at 1294.

The D.C. Circuit, which is the Court with the exclusive jurisdiction to review the Agency's national Tribal Authority Rulemaking, upheld EPA's position that the term ''reservation'' under the CAA includes tribal trust lands outside of formal reservations. The United States Supreme Court denied the petition for certiorari, thus leaving the D.C. Circuit decision intact. The State of South Dakota is bound to follow the decision of the Court in this matter and may not now challenge the very issue which has already been litigated on the merits in the D.C. Circuit and upon which EPA has already prevailed.

II. Federal Indian Law Supports EPA's Position That Lands Held in Trust by the United States for an Indian Tribe are Indian Country

The body of federal Indian law provides overwhelming support for EPA's position that tribal trust lands located outside of the boundaries of formal reservations are Indian country as defined at 18 U.S.C. 1151. The United States Supreme Court has addressed this issue on several occasions, consistently finding that tribal trust lands are Indian country. See, *Oklahoma Tax Commission* v. *Sac and Fox Nation,* 508 U.S. 114, 123 (1993) (Oklahoma argued that while it did not have authority to tax tribal members on the reservation, the State had jurisdiction to tax a tribal store located on trust land outside the reservation. The Court rejected the State's argument, stating, ''we have never drawn the distinction Oklahoma urged.'' The Court also noted, ''Congress has defined Indian country broadly to include formal and informal reservations * * *'' (emphasis added)); *Oklahoma Tax Commission* v. *Citizen Band Potawatomi Indian Tribe of Oklahoma,* 498 U.S. 505, 511 (1991) (the Court held that tribal trust land ''is validly set apart and thus qualifies as reservation for tribal immunity purposes.''); *United States* v. *John,* 437 U.S. 634, 649 (1978) (finding ''no apparent reason'' why lands held in trust should not be considered a ''reservation'' under 18 U.S.C. 1151(a)). *See also, United States* v. *McGowan,* 302 U.S. 535 (1938).

Aside from the D.C. Circuit *Arizona Public Service* case, there are numerous other Circuit Court decisions confirming that tribal trust lands located outside of formal reservations are Indian country under 18 U.S.C. 1151(a) or (b). See, *HRI, Inc.* v. *EPA,* 198 F.3d 1224, 1249–54 (10th Cir. 2000) (tribal trust land is Indian country under 18 U.S.C. 1151(a) and may qualify under 1151(b) as well); *United States* v. *Roberts,* 185 F.3d 1125, 1131 (10th Cir. 1999), *cert. denied,* 529 U.S. 1108 (2000) (''official ''reservation'' status is not dispositive and lands owned by the federal government in trust for Indian tribes are Indian country pursuant to 18 U.S.C. 1151''); *Buzzard* v. *Oklahoma Tax Commission,* 992 F.2d 1073, 1076 (10th Cir. 1993) (lands held in trust by the federal government for a tribe are Indian country); *United States* v. *Azure,* 801 F.2d 336, 339 (8th Cir. 1986) (tribal trust land is Indian country under either § 1151(a) as a ''*de facto*'' reservation or § 1151 (b) as a dependent Indian community); *United States* v. *Sohappy,* 770 F.2d 816, 822–23 (9th Cir. 1985) (tribal trust land is ''reservation'' land under § 1151(a)); *Cheyenne-Arapaho Tribe of Oklahoma* v. *Oklahoma,* 618 F.2d 665, 668

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[1] EPA notes that South Dakota did in fact comment on the Tribal Authority Rule on November 22, 1994. While the State objected to the Agency's position that the CAA is a delegation of federal authority to tribes approved by EPA to administer CAA programs over all air resources within a reservation, the State did not object to EPA's position that the definition of ''reservation'' includes tribal trust lands which have not been formally designated as a reservation. Having failed to petition for review of this issue in the manner required by section 307(b)(1) of the Act, South Dakota may not now challenge EPA's position that the definition of ''reservation'' includes trust lands that have been validly set apart for the use of a tribe even though the land has not been formally designated as a reservation.

[2] The Tribal Authority Rule set forth EPA's position that for CAA programs there are at least two categories of lands which, although not formally designated as reservations, nonetheless qualify as ''reservation'' lands: Pueblos and tribal trust lands. EPA also stated that it will consider on a case-by-case basis whether types of lands ''other than Pueblos and tribal trust lands may be considered 'reservations' under Federal Indian law even though they are not formally designated as such.'' 63 FR at 7258. In other words, EPA's position as set forth in the TAR, is that Pueblos and tribal trust lands outside of formally designated reservations are validly set apart for the use of tribes and fall within the definition of ''reservation'' under the CAA; thus the Agency will not engage in a case-by-case analysis to determine the status of these lands.

[3] With regard to the plain meaning of the term, the Court stated, ''[t]he dictionary defines 'reservation' to be a 'tract of public land set aside for a particular purpose (as schools, forest, or the use of Indians).' WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1930 (1993). This definition surely encompasses both trust lands and formally designated reservations.'' *Id.* at 1293. The Court also noted that a different statutory definition of ''reservation'' found at 25 U.S.C. 465 (1994) is not an exclusive definition and that ''if Congress had wanted to limit the term ''reservation'' as petitioners suggest, Congress could have done so. Indeed, Congress on many occasions has defined 'reservation' in terms of other statutes.'' *Id.*

(10th Cir. 1980) (''lands held in trust by the United States for the Tribes are Indian country within the meaning of § 1151(a)''); *Santa Rosa Band of Indians* v. *Kings County,* 532, F.2d 655, 666 (9th Cir. 1975) (tribal trust lands held to be Indian country).

South Dakota relies on *United States* v. *Stands,* 105 F.3d 1565, 1572 (8th Cir. 1997), *cert. denied,* 522 U.S. 841 (1997) to support its proposition that, ''[i]n the Eighth Circuit trust lands are Indian country only when they are within the boundaries of an Indian Reservation, qualify as a dependent Indian community, or are an allotment, the Indian title to which has not been extinguished. If trust lands do not fall within one of these three categories, it is not Indian country.''

The *Stands* Court itself rejects this argument, noting, ''[i]n some circumstances, off-reservation tribal trust land may be considered Indian country. *See, e.g., United Stated* v. *Azure,* 801 F.2d 336, 338–39 (8th Cir. 1986) (tribal trust land could be considered de facto reservation or dependent Indian community).'' *Id.* at 1571 n. 3. In the *Azure* case, the Court held that the tribal trust lands located outside of the boundaries of the Turtle Mountain Indian Reservation were de facto reservation lands and Indian country under 1151(a). The Court noted that the lands could also be considered dependent Indian community under 1151(b).

Furthermore, the *Stands* case involved individual allotted lands and the issue of whether the allotted lands were Indian country under 18 U.S.C. 1151(c). The Court specifically stated that the case did not involve the issue of whether tribal trust lands are Indian country under 18 U.S.C. 1151 (a) or (b). ''The government has not argued that Azure or similar cases apply here.'' *Id.* Thus, the Court's statement that ''tribal trust land beyond the boundaries of a reservation is ordinarily not Indian country'' is dicta with regard to 18 U.S.C. 1151 (a) and (b) since the issue was not directly before the Court.

Thus, the overwhelming Supreme Court and Circuit Court precedent supports EPA's position that tribal trust lands located outside of formal reservations are Indian country as defined at 18 U.S.C. 1151, and the holding in *Stands,* which did not involve an analysis of whether tribal trust lands are Indian country under sections 1151(a) or (b) is not to the contrary.

In conclusion, pursuant to section 111(c) of the Clean Air Act, EPA hereby delegates its authority to the State of South Dakota to implement and enforce the NSPS program as described in our January 25, 2002 approval with regard to all areas within the State except for lands located within formal Indian reservations within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation; any land held in trust by the United States for an Indian tribe; and any other areas which are Indian country within the meaning of 18 U.S.C. 1151.

Sincerely,
Jack W. McGraw
Acting Regional Administrator.

cc: Mr. Charles D. McGuigan, Assistant Attorney General

II. Proposed Rule

EPA is proposing to update the table in 40 CFR 60.4(c), entitled ''Delegation Status of New Source Performance Standards [(NSPS for Region VIII]'', to indicate that the 40 CFR part 60 NSPS are now delegated to the State of South Dakota.

In addition, EPA is proposing to remove the NSPS from the SIP. In its January 30, 2000 submittal, the State requested that the NSPS be removed from the SIP. Since the State has been delegated the authority for the implementation and enforcement of the NSPS in 40 CFR part 60, we are proposing to remove the following sections from the South Dakota SIP: 74:36:07:01, 74:36:07:02, 74:36:07:03, 74:36:07:04, 74:36:07:05, 74:36:07:06, 74:36:07:07, 74:36:07:07.01, 74:36:07:09, 74:36:07:10, 74:36:07:12, 74:36:07:13, 74:36:07:14, 74:36:07:15, 74:36:07:16, 74:36:07:17, 74:36:07:18, 74:36:07:19, 74:36:07:20, 74:36:07:21, 74:36:07:22, 74:36:07:23, 74:36:07:24, 74:36:07:25, 74:36:07:26, 74:36:07:27, 74:36:07:28, 74:36:07:31, 74:36:07:32, 74:36:07:33, and 74:36:07:43.

EPA is soliciting public comments on the proposed revisions to 40 CFR 60.4(c) table and the removal of the NSPS from the South Dakota SIP. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments within thirty (30) days of publication of this notice to the EPA Regional office listed in the *ADDRESSES* section of this document.

A. Administrative Requirements for Proposed Rule

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, the proposed rule is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed rule merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead,

Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

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

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

Dated: July 1, 2002.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 02–17358 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MI79–01–7288b; FRL–7242–9]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to delete from the lists contained in 40 CFR part 81 the attainment status designations (attainment, unclassifiable and nonattainment) for Michigan affected by the original national ambient air quality standards for particulate matter measured as total suspended particulate (TSP). In accordance with section 107(d)(3)(B) of the Clean Air Act, the Administrator has determined that the selected area designations for TSP are no longer necessary for implementing the requirements for prevention of significant deterioration of air quality for particulate matter. In the final rules section of this **Federal Register**, we are deleting the TSP area designations for Michigan as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: June 24, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 02–17239 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MN71–7296b; FRL–7242–7]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to delete from the lists contained in 40 CFR part 81 the attainment status designations (attainment, unclassifiable and nonattainment) for Minnesota affected by the original national ambient air quality standards for particulate matter measured as total suspended particulate (TSP). In accordance with section 107(d)(3)(B) of the Clean Air Act, the Administrator has determined that the selected area designations for TSP are no longer necessary for implementing the requirements for prevention of significant deterioration of air quality for particulate matter. In the final rules section of this **Federal Register**, we are deleting the TSP area designations for Minnesota as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse written comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse written comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328

SUPPLEMENTARY INFORMATION: For additional information, see the Direct final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: June 26, 2002.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 02–17242 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7532]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) *Elevation in feet (NAVD)	
				Existing	Modified
Florida	St. Johns County (Unincorporated Areas).	Flora Branch	At the upstream side of Race Track Road	*9	*6
			Approximately 3,160 feet upstream of Flora Branch Boulevard.	None	*17
		Kendall Creek	Approximately 4,700 feet upstream of confluence with St. Johns River.	*11	*10
			Approximately 1,000 feet upstream of Roberts Road.	*24	*25
		Cunningham Creek	Approximately 4,500 feet upstream of confluence with St. Johns River.	*6	*7
			Approximately 2 miles upstream of Flora Branch Boulevard.	*22	*21
		Kentucky Branch	Approximately 1,000 feet upstream of State Road 13.	*7	*6
			Approximately 4,400 feet upstream of confluence with Kentucky Branch Tributary.	*23	*24

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) *Elevation in feet (NAVD)	
				Existing	Modified
		Kentucky Branch	At confluence with Kentucky Branch	*8	*7
		Tributary	At upstream side of Greenbriar Road	*19	*18
		Moultrie Creek	At the upstream side of U.S. Route 1	*9	*8
			At downstream side of Route 214	*33	*31
		Moultrie Creek	Approximately 1,200 feet upstream of confluence with Moultrie Creek.	*9	*8
		Tributary No. 1	Approximately 80 feet upstream of Lewis Point Road.	*25	*26
		Moultrie Creek	At confluence with Moultrie Creek	*9	*8
		Tributary No. 3	Approximately 200 feet upstream of Willow Walk Place.	*21	*22
		Moultrie Creek	At confluence with Moultrie Creek	*9	*8
		Tributary No. 4	Approximately 80 feet upstream of State Route 207.	*36	*37
		Orange Grove	Approximately 600 feet upstream of State Road 13N.	*15	*14
		Branch	Approximately 1.8 miles upstream of State Road 13N.	*27	*25
		Petty Branch	Approximately 200 feet upstream of State Road 13.	*7	*6
			Approximately 1.9 miles downstream of State Road 13.	None	*27
		St. Johns River	Approximately 200 feet downstream of State Road 13N.	*7	*6
		Tributary No. 2	At downstream side of Remington Forest Drive.	*10	*9
		St. Johns River	Approximately 500 feet downstream of Grove Bluff Road.	*6	*7
		Tributary No. 1	Approximately 125 feet upstream of State Road 13N.	None	*16
		St. Johns River	Approximately 2,350 feet upstream of confluence with St. Johns River.	*7	*6
		Tributary No. 5	Approximately 0.7 mile upstream of State Road 13.	None	*17
		St. Johns River	Approximately 575 feet downstream of State Road 13.	*7	*6
		Tributary No. 3	Approximately 800 feet upstream of unnamed road.	*22	*21
		St. Johns River	Approximately 75 feet upstream of confluence with St. Johns River Tributary No. 3, Branch No. 1.	*13	*14
		Tributary No. 3, Branch No. 2.	Approximately 1,825 feet upstream of confluence with St. Johns River Tributary No. 3, Branch No. 1.	*24	*23
		St. Johns River	Approximately 1,950 feet upstream of confluence with St. Johns River.	*7	*6
		Tributary No. 4	Approximately 0.6 mile upstream of State Road 13.	None	*24
		Sixmile Creek	Approximately 3.5 miles upstream with St. Johns River.	*6	*7
			At confluence with Turnbull Creek	None	*15
		Turnbull Creek	At confluence with Sixmile Creek	None	*15
			At upstream side of Interstate 95	None	*30
		Durbin Creek	At upstream side of Race Track Road	None	*12
			Approximately 280 feet upstream of U.S. Highway 1.	None	*15
		Mill Creek #2	Approximately 1,600 feet upstream of confluence with Sixmile Creek.	None	*6
			Approximately 0.8 mile upstream of State Road 16.	None	*26
		Red House Branch ...	At confluence with San Sebastian River ..	None	*10
			Approximately 100 feet upstream of Chicken Farm Road.	*28	*27
		Atlantic Ocean	Approximately 800 feet east of intersection of Hildago Road and Costanero Road.	None	*13
			Approximately 500 feet east of intersection of Country Route 210 and Ponte Vedra Boulevard.	*14	*17

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) *Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at the St. Johns County Administration Building, Building Department, 4020 Lewis Speedway, St. Augustine, Florida.					
Send comments to Mr. Ben Adams, Jr., St. Johns County Administrator, 4020 Lewis Speedway, P.O. Drawer 349, St. Augustine, Florida 32085–0349.					
Florida	St. Augustine Beach (City), St. Johns County.	Atlantic Ocean	Approximately 600 feet east of 16th Street and A1A Beach Boulevard.	*14	*17
			Approximately 600 feet southeast of A1A and Pope Road.	*9	*13
			Approximately 600 feet northeast of 16th Street and A1A Beach Boulevard.	None	*1
Maps available for inspection at the St. Augustine City Hall, 2200 A1A South, St. Augustine Beach, Florida.					
Send comments to Mr. Max Royle, City of St. Augustine Beach Manager, 2200 A1A South, St. Augustine Beach, Florida 32080.					
New Jersey	Bernardsville (Borough), Somerset County.	Indian Grave Brook	At confluence with Passaic River	*298	*303
			Approximately 475 feet upstream Washington Corner Road.	*596	*597
		Tributary K	At confluence with Indian Grave Brook	*450	*456
			Approximately 1,672 feet upstream of Washington Corner Road.	*562	*565
		Passaic River	At downstream corporate limit	*298	*303
			Approximately 4,940 feet above downstream corporate limits.	*374	*375
		Mine Brook	Approximately 0.05 mile upstream Mill Street.	*396	*397
			At dam	*435	*436
		Tributary MB	Approximately 0.06 mile upstream of confluence with Mine Brook.	*415	*416
			Approximately 0.02 mile downstream Thompson Road bridge.	*434	*435
Maps available for inspection at the Bernardsville Borough Hall, Office of the Borough Clerk, 166 Mine Brook Road, Bernardsville, New Jersey.					
Send comments to The Honorable Jay Parsons, Mayor of the Borough of Bernardsville, Municipal Building, Bernardsville, New Jersey 07924.					
Pennsylvania	Tinicum (Township), Bucks County.	Delaware River	Approximately 0.25 mile upstream of Uhlerstown Hill Road.	*126	*127
			Approximately 1.17 miles downstream of Upper Black Eddy Bridge.	*135	*134
		Delaware River	At confluence with the Delaware River	*127	*128
		Overland Flow	At divergence from the Delaware River	*135	*133
Maps available for inspection at the Tinicum Municipal Building, 163 Municipal Road, Pipersville, Pennsylvania.					
Send comments to Mr. Gary Pearson, Chairperson of the Township of Tinicum Board of Supervisors, 163 Municipal Road, Pipersville, Pennsylvania 18947.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17276 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7534]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
ILLINOIS				
St. Clair County (Unincorporated Areas)				
Silver Creek	Approximately 12,000 feet upstream of the confluence with Kaskaskia River.	*397	*396	St. Clair County (Unincorporated Areas), City of Mascoutah, City of Lebanon.
	Approximately 1.25 miles upstream of Lebanon Loyett Road.	*454	*451	
Hog River	At the confluence with Silver Creek	*422	*418	St. Clair County (Unincorporated Areas), City of Mascoutah.
	Just upstream of Union Street	*422	*418	
Loop Creek	At the confluence with Silver Creek	*422	*418	St. Clair County (Unincorporated Areas).
	Approximately 1.5 miles upstream of confluence with Silver Creek.	*422	*421	
Little Silver Creek	At the confluence with Silver Creek	*432	*429	St. Clair County (Unincorporated Areas).
	Approximately 1,500 feet upstream of confluence with Silver Creek.	*433	*432	
Ogles Creek	At the confluence with Silver Creek	*451	*449	St. Clair County (Unincorporated Areas), City of Fairview Heights.
	Approximately 265 feet upstream of Old Collinsville Road.	*550	*551	
Wolf Branch	Approximately 1,700 feet upstream of confluence with Richland Creek.	*501	*500	St. Clair County (Unincorporated Areas), Village of Swausea.
	Approximately 920 feet upstream of unnamed road.	None	*538	
Schoenberger Creek	Approximately at North 89th Street	None	*437	City of Belleville, City of Fairview Heights, City of East St. Louis.
	Approximately 1,500 feet upstream of State Route 161.	None	*482	
Kaskaskia River	At downstream corporate limits of Village of New Athens.	None	*395	Village of New Athens.

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 0.78 mile upstream of Illinois Central Railroad crossing.	None	*396	Village of New Athens.
Ponding Areas	Between Illinois Terminal Railroad and Camp Jackson Road.	*406	*404	Village of Cahokia.
	Approximately 20 feet south of the intersection of Fox Meadow Lane and Paris Avenue.	*409	*404	Village of Cahokia.
	At intersection of Sterling Place and Bermuda Avenue.	None	*422	Village of Caseyville.
	At intersection of Countryside Drive and Acorde Drive.	*419	*422	Village of Caseyville.
	North of Harding Ditch, west of Black Lane	*415	*418	Village of Caseyville.
	Approximately 1,000 feet northwest of intersection with Interstate Route 64 and State Route 157.	None	*422	Village of Caseyville.
	Between Interstate 255 and State Route 157.	*410	*411	Village of Alorton.
	Approximately 600 feet southeast of the intersection of Pocket Road and State Route 15 and Missouri Avenue.	None	*411	Village of Alorton.
	At the intersection of Lake Drive and East Side Levee and Sanitary Canal District.	*411	*414	City of Centreville.
	At the intersection of Belleview Avenue and North 80th Street.	None	*414	City of Centreville.
	Approximately 1,000 feet west of the intersection of State Route 15 (New Missouri Avenue and Harding Ditch).	None	*411	City of Centreville.
	Approximately 1,000 feet west of Collinsville Road.	None	*403	Village of Fairmont City.
	Approximately 700 feet east of the intersection of St. Clair Avenue and Louisville and Nashville Railroad.	None	*417	Village of Washington Park.
	Approximately 300 feet south of the intersection of St. Clair Avenue and Louisville and Nashville Railroad.	None	*414	Village of Washington Park, City of East St. Louis.
	Approximately 500 feet north of the intersection of St. Clair Avenue and Louisville and Nashville Railroad.	None	*414	Village of Washington Park, City of East St. Louis.
	Approximately 500 feet northwest of intersection of Summit Avenue and Michigan Avenue.	*413	*414	City of East St. Louis.
	Approximately 300 feet northeast of the intersection of Louisville and Nashville Railroad and Kings Highway (State Route 50).	None	*415	City of East St. Louis.
	Approximately 400 feet east of Ohio Avenue and North 62nd Street.	*412	*414	City of East St. Louis.
	Intersection of Marybelle Avenue and North 70th Street.	*417	*418	City of East St. Louis.
	Approximately 500 feet southwest of intersection of State Street and Terrace Drive.	*411	*414	City of East St. Louis.
	Approximately 600 feet south of intersection of St. Clair Avenue and North 47th Street.	*411	*414	City of East St. Louis.
	North of Cahokia Canal, west of Madison Road east of Industrial Avenue.	None	*407	St. Clair County (Unincorporated Areas).
	Approximately 1,000 feet west of the intersection of Collinsville Road and Cookson Road.	None	*403	St. Clair County (Unincorporated Areas).
	At intersection of Site Road and Park Road	*410	*411	St. Clair County (Unincorporated Areas).
	Approximately 400 feet east of intersection of Pocket Road and Site Road.	None	*411	St. Clair County (Unincorporated Areas).
	At intersection of Park Drive and Major Street.	*416	*418	St. Clair County (Unincorporated Areas).
	Approximately 800 feet west of intersection of Stowers Road and Bernia Street.	None	*421	St. Clair County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	At intersection of Watts Street and Brinson Drive.	*415	*418	St. Clair County (Unincorporated Areas).
	Approximately 0.5 mile east of intersection of Watts Street and Brinson Drive.	None	*418	St. Clair County (Unincorporated Areas), Village of Washington Park.
	At intersection of Caseyville Road and Bunkum Road.	*419	*422	St. Clair County (Unincorporated Areas), Village of Washington Park.
	At intersection of North 82nd Street and Bunkum Road.	None	*422	St. Clair County (Unincorporated Areas), Village of Washington Park.
	At intersection of Rock Springs Road and McKinley Avenue.	None	*422	St. Clair County (Unincorporated Areas), Village of Washington Park.
	North of Old Cahokia Canal and south of County Road boundary.	None	*415	St. Clair County (Unincorporated Areas), Village of Washington Park.
	Approximately 1,000 feet northeast of the intersection of Mullins Creek Road and Prairie du Pont Creed.	None	*418	St. Clair County (Unincorporated Areas).
	South of Cahokia Canal, north of CSX Transportation and southwest of Old Cahokia Canal.	None	*403	St. Clair County (Unincorporated Areas).
	Approximately 1,000 feet east of the intersection of Rock Springs Road and St. Clair Avenue.	None	*415	St. Clair County (Unincorporated Areas).
	Approximately 750 feet west of the intersection of Lake Drive and North 88th Street.	None	*414	St. Clair County (Unincorporated Areas).
	Approximately 400 feet south of the intersection of U.S. Route 255 (County Route 3).	*401	*404	St. Clair County (Unincorporated Areas).
Ponding Areas (along Harding Ditch).	Approximately 700 feet southeast of the intersection of State Route 157 and Carol Street.	*410	*411	St. Clair County (Unincorporated Areas).

Addresses

Village of Alorton

Maps available for inspection at the Alorton Village Hall, 4821 Bond Avenue, Alorton, Illinois.

Send comments to The Honorable Carolyn Williams, Mayor of the Village of Alorton, 4821 Bond Avenue, Alorton, Illinois 62207.

City of Belleville

Maps available for inspection at the Belleville Department of Economic Development & Planning, 101 South Illinois Street, Belleville, Illinois.

Send comments to The Honorable Mark A. Kern, Mayor of the City of Belleville, 101 South Illinois Street, Belleville, Illinois 62220.

Village of Cahokia

Maps available for inspection at the Cahokia Code Enforcement Department, 201 West 4th Street, Cahokia, Illinois.

Send comments to The Honorable Danita Reed, Mayor of the Village of Cahokia, 103 Main Street, Illinois 62206.

Village of Caseyville

Maps available for inspection at the Caseyville Village Hall, 10 West Morris Street, Caseyville, Illinois.

Send comments to The Honorable George C. Chance, Mayor of the Village of Caseyville, 10 West Morris Street, Caseyville, Illinois 62232.

City of Centreville

Maps available for inspection at the Centreville City Hall, 5800 Bond Avenue, Centreville, Illinois.

Send comments to The Honorable Frankie Seaberry, Mayor of the City of Centreville, 5800 Bond Avenue, Centreville, Illinois 62207.

City of East St. Louis

Maps available for inspection at the East St. Louis Municipal Building, 301 River Park Drive, East St. Louis, Illinois.

Send comments to The Honorable Debra Powell. Mayor of the City of East St. Louis, 301 River Park Drive, East St. Louis, Illinois 62201.

Village of Fairmont City

Maps available for inspection at the Fairmont City Village Hall, 2601 North 41st Street, Fairmont City, Illinois.

Send comments to Mr. Alex Bregen, Fairmont City Village President, 2601 North 41st Street, Fairmont City, Illinois 62201.

City of Fairview Heights

Mae for inspection at the City of Fairview Heights Municipal Building, 10025 Bunkum Road, Fairview Heights, Illinois.

Send comments to The Honorable Gail D. Mitchell, Mayor of the City of Fairview Heights, 10025 Bunkum Road, Fairview Heights, Illinois 62208.

City of Lebanon

Maps available for inspection at the Lebanon City Hall, 312 West St. Louis Street, Lebanon, Illinois.

Send comments to The Honorable Matthew Berberich, Mayor of the City of Lebanon, 312 West St. Louis Street, Lebanon, Illinois 62254.

City of Mascoutah

Maps available for inspection at the Mascoutah City Hall, #3 West Main Street, Mascoutah, Illinois.

Send comments to The Honorable Gerald E. Daugherty, Mayor of the City of Mascoutah, #3 West Main Street, Mascoutah, Illinois 62258.

Village of New Athens

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	

Maps available for inspection at the New Athens Village Hall, 905 Spotsylvania Street, New Athens, Illinois.

Send comments to Mr. Dennis Breithaupt, New Athens Village President, 905 Spotsylvania Street, New Athens, Illinois 62264.

St. Clair County (Unincorporated Areas)

Maps available for inspection at the St. Clair County Department of Building and Zoning, 10 Public Square, Belleville, Illinois.

Send comments to Mr. John Baricevic, Chairman of the St. Clair County Board, 10 Public Square, Belleville, Illinois 62220–1623.

Village of Swansea

Maps available for inspection at the Swansea Government Center, 1400 North Illinois Street, Swansea, Illinois.

Send comments to Mr. Michael S. Buehlhorn, President of the Village of Swansea Board of Trustees, 1400 North Illinois Street, Swansea, Illinois 62226.

Village of Washington Park

Maps available for inspection at the Washington Park Village Hall, 5218 North Park Drive, Washington Park, Illinois.

Send comments to The Honorable Sherman Sorrell, Mayor of the Village of Washington Park, 5218 North Park Drive, Washington Park, Illinois 62204.

For further information please contact the Map Assistance Center toll free at: 1–877–FEMA–MAP (1–877–336–2627).

INDIANA
Adams County (Unincorporated Areas)

Yellow Creek	At the confluence with St. Marys River	None	*790	Adams County (Unincorporated Areas)
	Approximately 1,750 feet upstream of Norfolk & Western Railroad.	None	*790	
Blue Creek	At the confluence with St. Marys River	None	*793	Adams County (Unincorporated Areas)
	At U.S. Route 27	None	*836	
St. Marys River	At South County Line Road	None	*751	Adams County (Unincorporated Areas), City of Decatur
	At the upstream state boundary	None	*794	

Addresses

Adams County (Unincorporated Areas)

Maps available for inspection at the Office of the Adams County Board of Commissioners, 313 West Jefferson, Room 251, Decatur, Indiana.

Send comments to Mr. Steve Bauman, President of the Adams County Board of Commissioners, 313 West Jefferson, Room 251, Decatur, Indiana 46733.

City of Decatur

Maps available for inspection at the Decatur City Hall, 225 West Monroe Street, Decatur, Indiana.

Send comments to The Honorable Fred R. Isch, Mayor of the City of Decatur, 225 West Monroe Street, Decatur, Indiana 46733.

INDIANA
Allen County (Unincorporated Areas)

Cedar Creek	Approximately 0.5 mile upstream of State Route 1.	*778	*779	Allen County (Unincorporated Areas), Town of Leo-Cedarville
	Approximately 790 feet downstream of North County Line Road.	*815	*816	
Little Cedar Creek	At the confluence with Cedar Creek	*811	*812	Allen County (Unincorporated Areas)
	Approximately 0.41 mile upstream of Fitch Road.	*818	*819	
Maumee River	At a point approximately 0.3 mile downstream of Scipio Road.	*726	*725	Allen County (Unincorporated Areas)
	At a point approximately 0.2 mile downstream of Bruick Road.	*746	*745	
St. Joseph River	At a point approximately 0.85 mile upstream of Halter Road.	*780	*779	Allen County (Unincorporated Areas), City of Fort Wayne
	Approximately 0.2 mile upstream of Roth Road.	*787	*788	
St. Marys River	Approximately 530 feet upstream of Hoagland Road.	*774	*775	Allen County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Hoagland Road.	*774	*775	
Fairfield/Harber Ditch	Approximately 0.1 mile upstream of Norfolk Southern Railway.	*764	*763	Allen County (Unincorporated Areas), City of Fort Wayne
	Approximately 0.26 mile upstream of Lower Huntington Road.	*774	*773	

Addresses

Allen County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	

Maps available for inspection at the Allen County Planning Service Department, 1 East Main Street, Room 630, City/County Building, Fort Wayne, Indiana.

Send comments to Ms. Linda K. Bloom, President of the Allen County Board of Commissioners, 1 East Main Street, Room 200, City/County Building, Fort Wayne, Indiana 46802.

City of Fort Wayne

Maps available for inspection at the Fort Wayne Planning Department, 1 Main Street, 8th Floor, City/County Building, Fort Wayne, Indiana.

Send comments to The Honorable Graham Richard, Mayor of the City of Fort Wayne, 1 Main Street, Room 900, City/County Building, Fort Wayne, Indiana 46802–1804.

Town of Leo-Cedarville

Maps available for inspection at the Leo-Cedarville Town Office, 14435 State Road One, Leo, Indiana.

Send comments to Ms. Jann Linn, President of the Leo-Cedarville Town Council, P.O. Box 408, Leo, Indiana 46765.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17271 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH00

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for *Deinandra conjugens* (Otay tarplant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft economic analysis for the proposed designation of critical habitat for *Deinandra conjugens* (Otay tarplant). We are also providing notice of the reopening of the comment period to allow for all interested parties to submit written comments on the draft economic analysis, and the proposed designation. Comments previously received need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final rule.

DATES: The original public comment period on the critical habitat proposal closed on August 13, 2001. The comment period is reopened and we will accept comments until August 9, 2002. Comments must be received by 5 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, CA 92008.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone 760–431–9440; facsimile 760–431–5902).

SUPPLEMENTARY INFORMATION:

Background

Deinandra conjugens (Otay tarplant) was known as *Hemizonia conjugens* when it was listed on October 13, 1998 (63 FR 54938). Since then, studies analyzing plant and flower morphology and genetic information prompted Baldwin (1999) to revise the Madiinae (tarplants), a tribe in the Asteraceae (sunflower family), and to reclassify several species into new or different genera. As a result, *Deinandra conjugens* is now the accepted scientific name for *Hemizonia conjugens.* This taxonomic change does not alter the limits or definition of *D. conjugens.* Because this taxonomic change was published and is generally accepted by the scientific community, we have proposed to change the name of *H. conjugens* to *D. conjugens* in 50 CFR 17.12(h) in our proposed critical habitat designation, and will use *D. conjugens* in this notice.

Deinandra conjugens was first described by David D. Keck (1958) as *Hemizonia conjugens* based on a specimen collected by L.R. Abrams in 1903 from river bottom land in the Otay Valley area of San Diego County, California. *Deinandra conjugens* is a glandular, aromatic annual of the Sunflower Family (Asteraceae). It has a branching stem that generally ranges from 5 to 25 centimeters (2 to 10 inches) in height with deep green or gray-green leaves covered with soft, shaggy hairs. The yellow flower heads are composed of 8 to 10 ray flowers and 13 to 21 disk flowers with hairless or sparingly downy corollas (fused petals). The phyllaries (small bracts associated with the flower heads) are ridged and have short-stalked glands and large, stalkless, flat glands near the margins. *Deinandra conjugens* occurs within the range of *D. fasciculata* [=*Hemizonia fasciculata*] (fasciculated tarplant) and *D. paniculata* [=*H. paniculata*] (San Diego tarplant). *Deinandra conjugens* can be distinguished from other members of the genus by its ridged phyllaries, black anthers (part of flower that produces pollen), and by the number of disk and ray flowers.

Based on information from herbarium records at the San Diego Natural History Museum (SDNHM) and CNDDB (2000) records, *Deinandra conjugens* has a narrow geographic distribution. The Service published a final rule on October 13, 1998, listing the species as threatened pursuant to the Endangered Species Act, as amended (Act). Additional information received after the listing indicates that the historical range for *D. conjugens* in San Diego County, California, is from the Mexican border north to Spring Valley and Paradise Valley, a distance of about 24 kilometers (km) (15 miles (mi)), and from Interstate Highway 805 east to Otay Lakes Reservoir, a distance of about 13 km (8 mi). Further, based on these museum and database records, the elevational range for *D. conjugens* appears to be between 25 and 300 meters (m) (80 and 1,000 feet (ft)).

At the time the species was listed as threatened pursuant to the Act, we

estimated that 70 percent of the suitable habitat for this species within its known range had been lost to development or agriculture (63 FR 54938). Since 1998, additional habitat has been lost to development (e.g., urban, commercial, industrial, and residential) and agriculture (e.g., grazing, farming). On June 13, 2001, we published a rule in the **Federal Register** (66 FR 32052) proposing to designate approximately 2,685 hectares (6,630 acres) of land in San Diego County, California, as critical habitat for *Deinandra conjugens* pursuant to the Act.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Deinandra conjugens* and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available at the above mailing and internet address (see **ADDRESSES** section). We will accept written comments during this reopened comment period. The current comment period on this proposal and draft economic analysis closes on August 9, 2002.

Public Comments Solicited

We will accept written comments and information during this comment period. If you wish to comment, you may submit written comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

(2) You may send comments by electronic mail (e-mail) to: *deco@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please include ''Attn: Otay tarplant'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760–431–9440.

(3) You may hand-deliver comments to our Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Copies of the draft economic analysis are available on the Internet at ''*http://carlsbad.fws.gov*'' or by writing to the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

References Cited

A complete list of all references cited in this notice is available upon request from the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Daniel R. Brown (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: June 16, 2002.

Craig Manson,

Assistant Secretary for Fish Wildlife and Parks.

[FR Doc. 02–17344 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 070102B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before July 25, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on UNH Codend Selectivity EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one commercial vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from the Northeast (NE) multispecies days-at-sea (DAS) notification requirements at 50 CFR 648.10(c) and 648.82(a); the Gulf of Maine (GOM) Rolling Closures specified at 50 CFR 648.81; and the NE multispecies minimum mesh size requirements specified for the GOM Regulated Mesh Area at 50 CFR 648.80, for 5 days of at-sea gear testing.

This application for an EFP was submitted by the University of New Hampshire (UNH) Cooperative Extension for research funded through the Northeast Consortium. The applicant proposes to design, develop and test a hydrodynamic trawl-net codend outer ≥cover≥ for use in future, long-term, fishing trawl-net codend selectivity studies in the GOM not to exceed 5 days of at-sea trials. Floats, weights and kites would be positioned outside of the codend to hold a small-mesh net that surrounds the codend. The objective of the research is to develop a design and methodology for collecting fish that would otherwise escape from the codend of a trawl net. This would enable the researchers to quantify the amount of fish that escape and are retained by the codend. The researchers will use alternate tows both with and without the ≥cover≥ to evaluate any differences in fish retention. Also, underwater video

technology will be employed to observe the codend, the ≥cover,≥ and the fish escaping from the codend.

UNH researchers would be aboard the vessel at all times during the experimental work. All undersized fish and/or protected species would be returned to the sea as quickly as possible after measurement and examination. Legal-sized fish that otherwise would have to be discarded would be allowed to be retained and sold. The participating vessel would be required to report all landings in its Vessel Trip Report.This experimental work is important because large amounts of undersized, regulated fish species may sometimes be caught and discarded, despite the use of legal-sized mesh. The successful development of a codend ≥cover≥ would facilitate future, long-term, mesh selectivity studies to determine appropriate codend mesh sizes and shapes in the GOM that reduce the catch of undersized fish, yet still retain legal-sized fish. Improved selectivity of trawl nets could ultimately provide for additional conservation of overfished species, such as GOM cod.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: July 5, 2002.

Virginia M. Fay,

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

[FR Doc. 02–17332 Filed 7–9–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 132
Wednesday, July 10, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Herger-Feinstein Quincy Library Forest Recovery Plan Amendment

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare a final supplemental environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, Lassen National Forest, Plumas National Forest, and Tahoe National Forest will prepare a supplemental environmental impact statement (EIS) in response to a recent United States District Court Decision in *Californians for Alternatives to Toxics* v. *Michael Dombeck No. Civ.* S–00–605 LKK/PAN. This supplemental EIS will address maintenance of defensible fuels profile zones (DFPZs) in the Herger-Feinstein Quincy Library Forest Recovery Act Pilot Project Area.

The Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register**/Vol 66, No. 15, page 42625 on Tuesday, August 14, 2001. The Notice announced that a supplemental draft environmental impact statement was expected to be available for public review and comment in October 2001, and a final environmental impact statement in January 2002. The Notice of Availability of the Draft Supplement was published in the **Federal Register**/Vol 66, No. 194, page 51036 on Friday, October 5, 2001. The Final Supplement is now expected to be available in October 2002.

FOR FURTHER INFORMATION CONTACT: Theresa Frolli, Team Leader, USDA Forest Service, Lassen National Forest, 2550 Riverside Dr. Susanville, CA 97130. Phone number (530) 257–2151.

Dated: July 2, 2002.

Edward C. Cole,

Forest Supervisor, Lassen National Forest.

[FR Doc. 02–17305 Filed 7–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Payette National Forest, Idaho; Lick Timber Sale

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare the Lick Timber Sale environmental impact statement (EIS). The proposed action in the EIS is to reduce fuels, manage forest vegetation, enhance northern Idaho ground squirrel (NIDGS) habitat, and manage roads. The EIS will analyze the effects of the proposed action and alternatives. The agency gives notice of the full National Environmental Policy Act (NEPA) analysis and decision making process on the proposal so interested and affected members of the public may participate and contribute to the final decision. The Payette National Forest invites written comments and suggestions on the scope of the analysis and the issues to address.

DATES: Comments must be received in writing by August 12, 2002.

ADDRESSES: Send written comments to Faye L. Krueger, Council District Ranger at P.O. Box 567, Council, Idaho, 83612. Faxes should be sent to 208–253–0109 and e-mails to *fkrueger@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project and scope of analysis should be directed to Sam Feider, Team Leader, at the above address, or phone at (208) 253–0100.

SUPPLEMENTARY INFORMATION: The analysis area is about 25 air miles north-northwest of Council, Idaho, in Adams County. The area can be reached by taking Forest Road #002 (Council-Cuprum Road) to Forest Road #143 (Lick Creek Road). The project area consists of National Forest System lands located in Township 20N, Range 2W, in all or portions of sections 9, 10, 15–17, 20–23, and 26–35, Boise Meridian and in Township 19N, Range 2W, in all or portions of sections 2–10, and 15–18, Boise Meridian. It is located entirely within the 6,922-acre Middle Lick subwatershed, and a small portion (4,237 acres) of the Upper Lick subwatershed. The proposed action will be in compliance with the Payette National Forest Land and Resource Management Plan (Forest Plan of 1988), as amended), which provides overall guidance for management of this area.

Purpose and Need for Action

The purpose and need for the proposed action is to: (1) Improve timber stand growth and yield, (2) Reduce the incidence and hazard of insect and disease in timbered stands through harvest and salvage, (3) Reduce the risk of wildland fire to forestland, investments, adjacent private lands, and facilities, (4) Reduce the potential of sediment delivery to Lick Creek and its tributaries from roads, and eliminate roads unneeded for future management, and (5) Enhance suitable habitat for northern Idaho ground squirrels to meet habitat management and recovery plan goals. The proposal has four main objectives it would achieve. It would: (1) Reduce the risk of extreme fire behavior (crown fire) in the Upper Lick Creek and Middle Lick drainages. This in turn would: (a) Reduce the risk that wildfire would damage and/or destroy tree plantations in the project area, thereby maintaining past investments; (b) protect private land investments; (c) provide an area that would allow firefighters to safely suppress an escaped wildfire; and (d) provide a foundation to expand future fuels reduction activities into other portions of the Bear Watershed. (2) Reduce overstocked timber stands and plantations through timber harvest and thinning. This in turn would: (a) improve seral tree species health and decrease opportunities for insect and disease outbreaks, (b) improve tree growth by reducing the competition between trees for sunlight, moisture, and nutrients, (c) reforest with seral tree species, and (d) contribute to the Council District's portion of the Payette National Forest allowable sale quantity. (3) Enhance northern Idaho ground squirrel habitat to facilitate population recovery, and (4) Design a transportation system that responds to human access needs while reducing impacts and improving watershed conditions for

hydrologic function, soil productivity, and fisheries and wildlife habitat. This in turn would: (a) improve the hydrologic function and productivity on soils committed to roads that may no longer be needed for future management, (b) reduce current and potential sediment delivery to streams from roads, especially within Riparian Conservation Areas (RCAs), (c) reduce overall road densities, especially in landslide prone areas and riparian habitat conservation areas to improve geomorphic integrity and water quality integrity, (d) reduce or improve stream crossings to decrease the ''hydrologic connectivity'' between roads and streams, (e) improve fish passage at road crossings, (f) avoid management activities that have the potential to increase stream temperatures in Wildhorse River; a downstream 303(d) listed Waterbody, (g) avoid additional cumulative impacts to the Snake River; a downstream 303(d) listed Waterbody, and (h) manage open road densities to maintain the Forest Plan Elk Habitat Effectiveness (EHE) rating in Issue Reporting Area (IRA) 117 to Forest Plan Standards. Within IRA 118, manage open road densities to Forest Plan Standards that occur within the Lick Project Area (approximately ⅓ of IRA 118 overlaps the project area).

Proposed Action

The Proposed Action would reduce fuels, manage forest vegetation, enhance NIDGS habitat, and manage roads. (1) Reduce Fuels—Use mechanical thinning and harvesting, and prescribed fire treatments on approximately 1,200 acres. (2) Manage Forest Vegetation—(a) Use ground-based, skyline, and helicopter yarding systems to harvest timber on approximately 1,438 acres. The harvest prescriptions would encompass 163 acres of reserve tree (retain 3–10 healthy seral trees per acre), 51 acres of shelterwood seed-cut (retain 10–15 healthy seral trees per acre), 999 acres of commercial thin/sanitation salvage, and an additional 233 acres of precommercial thin. Reforestation treatments would include 260 acres, of which approximately 171 acres would require plantation fencing. (b) Reduce generated fuels and/or prepare sites for planting by underburning or piling and burning of logging slash. (3) Enhance Northern Idaho Ground Squirrel Habitat—(a) Use mechanical thinning and prescribed fire on about 225 acres to restore suitable NIDGS habitat to historical conditions. Within the Lick Creek corridor, shade-tolerant conifer tree species (grand fir and to some extent Douglas-fir) would be thinned, while retaining the large, old ponderosa pine or Douglas-fir. (b) Reintroduce fire following thinning to rejuvenate the herbaceous vegetation. (c) Install temporary fencing around the area to exclude cattle and hasten recovery. (4) Manage Roads—(a) Construct 4.0 miles of new roads (close following project implementation), and decommission 26.6 miles of existing roads (8.9 miles of classified roads and 17.7 miles of non-classified roads). (b) Close year-round approximately 12.9 miles of road that are currently open year-round and/or seasonally.

Responsible Official

The responsible official is the Forest Supervisor of the Payette National Forest.

Scoping Process

Public notices have been placed in local and regional newspapers. A public meeting is anticipated to occur following issuance of the draft EIS. The meeting will be announced in the Payette National Forest's newspaper of record, the Idaho Statesman, Boise, Idaho.

Preliminary Issues

The proposed action may generate six preliminary issues. [We pay for Federal Register notices, and long ones get expensive. We rarely get comments about issue background statements appearing in Federal Register notices. I would abbreviate and save govt. money as follows.] (1) Effects on Water Quality. (2) Effects on Fisheries (3) Effects on Wildlife Habitat. (4) Effects on Noxious Weeds. (5) Effects on Recreation. (6) Effects of Road Construction and Decommissioning.

Design features for the Proposed Action will help reduce or eliminate other possible impacts (visual resource, heritage resources, water quality, soils, fisheries, wildlife, etc.).

Early Notice of Importance of Public Participation in Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues raised by the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: July 3, 2002.

Mark J. Madrid,

Forest Supervisor.

[FR Doc. 02–17302 Filed 7–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Southwest Idaho Resource Advisory Committee, Cascade, ID Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Thursday, July 25, 2002 in Cascade,

Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Randy Swick, McCall District Ranger and Designated Federal Officer, at (208) 634–0400.

SUPPLEMENTARY INFORMATION: The business meeting on July 25th, begins at 10:30 a.m., at the American Legion Hall, Cascade, Idaho. Agenda topics will include review and approval of project proposals, and an open public forum.

Dated: July 1, 2002.

Mark J. Madrid,

Forest Supervisor, Payette National Forest.

[FR Doc. 02–17220 Filed 7–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: North Central Idaho Resource Advisory Committee, Grangeville, Idaho, Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Nez Perce and Clearwater National Forests' North Central Idaho Resource Advisory Committee will meet Thursday, July 25, 2002 (The date of June 25, 2002 for this meeting, published on July 2, 2002, was incorrect) in Elk City, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Ihor Mereszczak, Staff Officer and Designated Federal Officer, at (208) 983–1950.

SUPPLEMENTARY INFORMATION: The business meeting on July 25 begins at 2 p.m., at the Elk City Forest Service Ranger Station, Elk City, Idaho. Agenda topics will include review FY03 work plans. A public forum will begin at 3 p.m. (PST).

Dated: July 1, 2002.

Ihor Mereszczak,

Acting Forest Supervisor.

[FR Doc. 02–17252 Filed 7–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Southern Intertie Project; Notice of Availability of a Final Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of a final environmental impact statement.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has released for public review the Final Environmental Impact Statement (FEIS) for the Southern Intertie Project. The project, being proposed by the Intertie Participants Group (IPG), is the construction of a 138 kilovolt (kV) transmission line between the Kenai Peninsula and Anchorage, Alaska. The RUS is the lead Federal agency in the environmental review process. The U.S. Fish and Wildlife Service (USFWS) and the U.S. Army Corps of Engineers (USACE) are serving as cooperating agencies.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Senior Environmental Protection Specialist, Engineering and Environmental Staff, USDA Rural Utilities Service, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–1784, fax (202) 720–0820. The E-mail address is: *lwolfe@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: The IPG has proposed a new 138 kV transmission line in order to improve the overall Railbelt electrical system reliability and energy transfer capabilities between the Kenai Peninsula and Anchorage. The IPG proposed alternative, the Enstar Route, would connect the Soldotna Substation on the Kenai Peninsula with the International Substation in Anchorage. This alternative would parallel the Enstar Pipeline through the Kenai National Wildlife Refuge (KNWR). The environmentally preferred alternative, the Tesoro Route, would connect the Bernice Lake Substation on the Kenai Peninsula with the Pt. Woronzof Substation in Anchorage. This alternative would parallel the Tesoro Pipeline from the Captain Cook State Recreational Area to Pt. Possession. The Draft Environmental Impact Statement (DEIS) analyzed the potential impacts of constructing and operating a 138 kV transmission line along both the Enstar and Tesoro Routes. The DEIS also evaluated a number of routing alternatives and related system improvements between the proposed substation connections, in addition to alternative technologies and the no-action alternative.

Notices of availability of the DEIS were published in the **Federal Register** on October 3, 2001 (66 FR 50396) by RUS and on October 5, 2001 (66 FR 51036) by EPA. The 60-day comment period on the DEIS ended on December 5, 2001.

As required by Title XI of Alaska National Interest Lands Conservation Act, public hearings were held on the DEIS in the District of Colombia on October 30, 2001, and within the State of Alaska, in Anchorage, on November 13, 2001, and in Soldotna, on November 14, 2001.

Public testimony at the three hearings was received from 12 persons. During the 60-day comment period, a total of 102 different comment letters were received from Federal, State, and municipal agencies, businesses, native corporations, non-profit organizations, and individuals. Two of the letters were e-mail form letters signed by 158 and 907 individuals, respectively, and one letter was in petition format with 12 signatures. The actual number of commentors was 1,174.

The FEIS incorporates information received on the DEIS and consists of two volumes. Volume I consists of an expanded Project Summary, responses to comments, including copies of the original correspondence, supplemental information, and corrections to the DEIS. The USFWS Compatibility Determination and the USACE Draft Evaluation of the Section 404(b)(1) Permit Application are appended to this volume. Volume II consists of the mitigation plan that was developed to either eliminate or minimize impacts associated with the construction and operation the proposed project utilizing either the Enstar or Tesoro Routes.

Copies of the FEIS have been sent to agencies, organizations, and individuals that received the DEIS. Additional copies of the FEIS are available for public review at the following public libraries in Anchorage: Z.J. Loussac Public Library; Chugiak-Eagle Public Library; Gerrish (Girdwood) Branch Library; Mountain View Branch Library; Muldoon Branch Library; and the Samson-Dimond Public Library. Copies will also be available for review at the following libraries on the Kenai Peninsula: Hope Community Library; Cooper Landing Community Library; Soldotna Public Library; and Kenai Community Library. In Washington, DC, copies are available for review at RUS offices. The FEIS is available online at *http://www.usda.gov/rus/water/ees/eis.htm.*

The FEIS is an informational document only. The purpose of the FEIS is to provide the public and decision makers' information on the potential environmental effects of the alternatives under consideration. The RUS, along with the USFWS and USACE, will consider information contained in the FEIS in rendering their respective decisions, which will be published in each agency's respective Record of Decision (ROD). A copy of the RUS ROD will be available online at the previously identified web site. A notice of availability of the ROD will be published in the **Federal Register** and in local Alaska newspapers.

Dated: July 1, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–17326 Filed 7–9–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for emergency clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Secretary.

Title: DOC Postsecondary Internship Program Intern Evaluation Survey.

Form Number(s): CD–577.

OMB Approval Number: None.

Type of Request: Emergency submission.

Burden Hours: 75.

Number of Respondents: 150.

Average Hours Per Response: 30 minutes.

Needs and Uses: The Office of Executive Budgeting and Assistance Management (OEBAM) manages the U.S. Department of Commerce (DOC) Postsecondary Internship Program. The program is competitively awarded and funded by cooperative agreements with the purpose of providing experiential training opportunities for postsecondary students at DOC and other partner federal agencies. The program is administered through a partnership between DOC and non-profit and/or educational institutions. The information collected from the survey will assist in program improvements and implement performance measures for strategic planning.

Affected Public: Individuals or households, not-for-profit institutions.

Frequency: Three times per year, during summer, fall and spring sessions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *MClayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent by July 25, 2002 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 3, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–17267 Filed 7–9–02; 8:45 am]

BILLING CODE 3510–BV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: We preliminarily find that helical spring lock washers from the People's Republic of China are not being sold in the United States below normal value by the Hangzhou Spring Washer Plant (also known as Zhejiang Wanxin Group, Ltd.). Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 10, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3464.

SUPPLEMENTARY INFORMATION:

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, as amended (the Act) by the Uruguay Round Agreements Act. Unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On October 19, 1993, the Department published the antidumping duty order on certain helical spring lock washers (HSLWs) from the People's Republic of China (PRC) (58 FR 53914). The Department notified interested parties of the opportunity to request an administrative review of this order on October 1, 2001 (66 FR 49923). The petitioner, Shakeproof Assembly Components Division of Illinois Tool Works, Inc., requested that the Department conduct an administrative review of Hangzhou Spring Washer Plant (also known as Zhejiang Wanxin Group Co. Ltd. (ZWG)), the predecessor firm to Hang Zhou Spring Washer Co., Ltd. (collectively Hangzhou), on October 30, 2001. The notice of initiation of this administrative review was published on November 21, 2001 (66 FR 58432).

On February 15, 2002, the petitioner timely requested verification for ''good cause'' pursuant to 19 CFR 351.307(b)(iv). On March 8, 2002, Hangzhou responded to the Department's January 4, 2002, questionnaire. The Department, on April 18, 2002, provided parties with an opportunity to submit information regarding appropriate surrogate values. On May 9, 2002, both petitioner and Hangzhou submitted surrogate value comments. The Department issued a supplemental questionnaire to Hangzhou on June 3, 2002. Hangzhou submitted its supplemental questionnaire responses on June 17, 2002.

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Order

The products covered by the order are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock

washers made of other metals, such as copper.

HSLWs subject to the order are currently classifiable under subheading 7318.21.0030 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Review

This review covers the period October 1, 2000, through September 30, 2001.

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economy countries (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: 1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; 2) any legislative enactments decentralizing control of companies; and, 3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: 1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; 2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or the financing of losses; 3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and, 4) whether each exporter has autonomy from the government regarding the selection of management. (*See Silicon Carbide*, 59 FR at 22587 and *Sparklers*, 56 FR at 20589.)

In each of the previous administrative reviews of the antidumping duty order on HSLWs from the PRC, covering successive review periods from October 1, 1993, through September 30, 2000, we determined that Hangzhou and its predecessor, ZWG, merited a separate rate. We found, in each review, an absence of government control, both in law and in fact, with respect to Hangzhou's export activities according to the criteria identified in *Sparklers*, and an absence of government control with respect to the additional criteria identified in *Silicon Carbide*. During this period of review (POR), we have no evidence of any change in either the *Sparklers* or *Silicon Carbide* criteria. Therefore, we have assigned Hangzhou a separate rate.

Export Price

Because Hangzhou sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States and constructed export price methodology is not otherwise indicated, we have used export price in accordance with section 772(a) of the Act.

We calculated export price based on the FOB price to unaffiliated purchasers. From this price, we deducted amounts for foreign inland freight, and brokerage and handling pursuant to section 772(c)(2)(A) of the Act. We valued these deductions using surrogate values. We selected India as the primary surrogate country for the reasons explained in the ''Normal Value'' section of this notice.

Normal Value

The Department has determined the PRC to be an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the PRC HSLW industry is a market-oriented industry and, consequently, we have no basis to determine that the information in this review would permit the calculation of normal value (NV) using PRC prices or costs. Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using a factors-of-production methodology if: (1) the merchandise is exported from an NME, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Therefore, we calculated NV based on factors of production in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

Because we are using surrogate country factors-of-production prices to determine NV, section 773(c)(4) of the Act requires that the Department use values from a market economy (surrogate) country that 1) is at a level of economic development comparable to that of the PRC, and 2) is a significant producer of comparable merchandise. We have determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are market economy countries at a comparable level of economic development to that of the PRC. (*See* Memorandum to Susan Kuhbach from Jeff May, dated April 11, 2002, ''Eighth Administrative Review for Certain Helical Spring Lock Washers from the People's Republic of China,'' which is available in the Public File in the Central Records Unit in the main Commerce Building (CRU)). In addition, India and Indonesia are significant producers of comparable merchandise. The regulations at 19 CFR 351.408(c)(2) state that the Secretary normally will value all factors in a single surrogate country (emphasis added). However, when a FOP value from the primary surrogate country is aberrational or unreliable, we may use a publicly available value from another appropriate surrogate country. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Result s of 1998–1999 Administrative Review, and Determination Not To Revoke Order in Part*, 66 FR 1953, (January 10, 2001), and the accompanying *Decision Memorandum* at Comment 10, which is available in the Public File of the CRU. As in the investigation and seven previous reviews, we have chosen India as the primary surrogate country. We have used Indian prices to value the factors of production except where 1) a meaningful amount of the factor was purchased from a market economy supplier and paid for in a market economy currency, or 2) the Indian price for a factor was aberrational and unreliable.

We selected, where possible, publicly available values from India which were: (1) average non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and, (4) tax-exclusive. We valued the factors of production as follows:

• A meaningful amount of the input carbon steel wire rod was purchased from the United Kingdom, a market economy supplier, and paid for in a

market economy currency. Pursuant to 19 CFR 351.408(c)(1), we valued this factor using the price paid to the market economy supplier. Thus, for carbon steel wire rod values, we used the average cost per metric ton of carbon steel wire rod imported from the United Kingdom by Hangzhou during the POR. We made adjustments to account for the freight costs incurred between the port and Hangzhou.

• To value the scrap steel sold by Hangzhou, we used per kilogram values obtained from the *Monthly Statistics of the Foreign Trade of India - Imports* (*MSFTI*) as a by-product offset.

• To value hydrochloric acid used in both the production and plating processes, we used per kilogram values for imports into Indonesia obtained from the Indonesian *Badan Pusat Stastisik*. We rejected the Indian import values as we did in the most recent review because the values were aberrational. *See Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of the Antidumping Duty Administrative Review*, 67 FR 8520 (February 25, 2002) (*HSLWs–7*).

• To value other chemicals used in the production and plating processes of HSLWs, we used per kilogram import values obtained from *MSFTI* and the Indian publication *Chemical Weekly*. We adjusted these values, where appropriate, to reflect inflation using the Wholesale Price Index (WPI) as reported in the *International Financial Statistics* published by the International Monetary Fund (IMF). We also adjusted these values to account for freight costs incurred between the supplier and Hangzhou.

• To value coal, we used a per kilogram value obtained from the *MFSTI*. We adjusted this value to reflect inflation using the WPI published by the IMF. We also made adjustments to account for freight costs incurred between the supplier and Hangzhou.

• To value electricity, we used the electricity price data from *Energy Data Directory and Yearbook (1999/2000)* published by the Tata Energy Research Institute. We adjusted the value to reflect inflation using the electricity sector-specific inflation index published in the *Reserve Bank of India (RBI) Bulletin*.

• To value water, we used the *Second Water Utilities Data Book for the Asian and Pacific Region* published by the Asian Development Bank in 1997. We adjusted the value to reflect inflation using the WPI published by the IMF.

• For labor, we used the regression-based wage rate for the PRC in ''Expected Wages of Selected NME Countries,'' located on the Internet at http://ia.ita.doc.gov.wages/99wages/htm. Because of the variability of wage rates in countries with similar per capita gross domestic products (GDP), 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. The source for the regression wage rates is ''Expected Wages of Selected NME Countries - 1999 Income Data,'' *Year Book of Labour Statistics 1999*, International Labour Office, (Geneva: 2000).

• For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January, 1997 *RBI Bulletin* for the Indian industry group ''Processing and Manufacturing: Metals, Chemicals, and Products Thereof.'' From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (ML&E) costs, SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture), and the profit rate as a percentage of the cost of manufacture plus SG&A.

• For packing materials, we used the per kilogram values obtained from the *MFSTI*. Where necessary, we adjusted these values to reflect inflation using the WPI published by the IMF. We also made adjustments to account for freight costs incurred between the PRC supplier and Hangzhou.

• To value foreign brokerage and handling, we used information reported in the *New Shipper Review for Stainless Steel Wire Rod from India*, 66 FR 27629 (May 18, 2001). See Meltroll Engineering Pvt. Ltd.'s submission dated September 12, 1999. We adjusted this value to reflect inflation using the WPI published by the IMF.

• To value truck freight, we used November 1999 price quotes which were obtained by the Department in India and used in the *Final Determination of Sales at Less than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000) (*Bulk Aspirin from the PRC*) and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the PRC; Final Results of 1999–2000 Administrative Review, Partial Rescission of the Review , and Determination Not to Revoke the Order in Part*, 66 FR 57420 (November 15, 2001) (*TRBs–13*).

• To value rail freight, we used November 1999 rail freight price quotes obtained by the Department and used in *Bulk Aspirin from the PRC and TRBs–13*.

• To value shipping freight, we used a rate reported in a July 14, 1997, letter from the Inland Waterways of India which was used in *HSLWs–7*. We adjusted the rate to reflect inflation using the WPI published by the IMF.

For a complete description of the factor values used, see ''Memorandum to File: Factor Values Used for the Preliminary Results of the Eighth Administrative Review,'' dated July 3, 2002 (Factors Memorandum), a public version of which is available in the Public File of the CRU.

Verification

Because the Department verified Hangzhou's information in the 6th administrative review for the POR from October 1, 1998, through September 30, 1999, we are not, absent a showing of good cause, statutorily required to verify Hangzhou's response in this review. (*See* Section 782(i)(3)(B) of the Act and 19 CFR 351.307(b)(iv)). The focus of petitioner's alleged ''good cause'' verification request is on Hangzhou's importation of steel from a market economy country that is used in the production of the subject merchandise. Hangzhou, however, provided the requested information regarding its steel purchases from a market economy supplier in its June 17, 2002, supplemental response. When verifications were conducted in previous reviews, we examined and verified the accuracy of Hangzhou's steel import information. Essentially, the petitioner makes the same arguments for a ''good cause'' verification that it has made in the past when the Department has conducted verifications of Hangzhou's steel imports. Petitioner has not presented any information to the Department for purposes of this review that causes us to question the validity of the information Hangzhou has submitted regarding its purchase of steel from a market economy supplier. Therefore, the Department has determined that the petitioner has not shown ''good cause'' to verify Hangzhou's information in this review.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time Period	Margin (percent)
Hang Zhou Spring Washer Co. Ltd./. Zhejiang Wanxin. Group Co., Ltd	10/1/00–9/30/01	0

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. If these preliminary results are adopted in our final results, we will direct Customs to liquidate the entries made during the POR without regard to antidumping duties. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following cash deposit rates will be effective upon publication of the final results for all shipments of HSLWs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for Hangzhou, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of review; (2) for all other PRC exporters, the cash deposit rate will be the PRC rate, 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC*, 58 FR 48833 (September 20, 1993); and, (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary 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 double antidumping duties.

Public Comment

Pursuant to 19 CFR 351.24, the Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of any public announcement, or, if there is no public announcement, within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of the date of publication of this notice (*See* 19 CFR 351.310). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (see below). According to 19 CFR 351.309, interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f)(3).

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such briefs or hearing, within 120 days of publication of these preliminary results.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 3, 2002.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–17353 Filed 7–9–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062802B]

Marine Mammals; File No. 738–1454–04

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Ms. Carole Conway, Genomic Variation Laboratory, Department of Animal Science, Meyer Hall, University of California, Davis, CA 95616–3322, has been issued a minor amendment to scientific research Permit No. 738–1454–03.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing endangered and threatened marine species(50 CFR parts 222–226).

This amendment extends the expiration date for the importation and exportation of blue whale (*Balaenoptera musculus*) samples from June 30, 2002, to May 31, 2003.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 28, 2002.

Jill Lewandowski,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–17331 Filed 7–9–02; 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 & Readiness).

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 the following

proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the 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; 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.

DATES: Consideration will be given to all comments received by September 9, 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/Military Personnel Policy/Compensation), ATTN: Lt Col Bob Rennicker, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection information, please write to the above address or call 703–697–3793.

Title, Associated Form, and OMB Control Number: Validation of Public or Community Service Employment Performed by Retired Personnel Retired Under the Temporary Early Retirement Authority (TERA) for Increased Retirement Compensation, DD Form 2676, OMB Number 0704–0357.

Needs and Uses: This information collection requirement is necessary to validate the public service or community service of military members who retired under the Temporary Early Retirement Authority. The Military Services and the Coast Guard had the authority until December 31, 2001, to permit early retirement for selected Service personnel with more than 15, but less than 20 years of service. All of these members who retired under Section 4403(a) before the completion of at least 20 years of active duty service may take employment in public or community service, making them eligible for increased early retirement compensation. A retiree may receive service credit for all qualifying periods of employment by a registered public or community service organization during the ''enhanced requirement qualification period.'' This qualification period begins on the date of retirement and ends on the date the retired member would have attained 20 years of creditable service for retirement purposes. This information collection is needed to provide certification of a member's full-time public and/or community service employment by a registered public or community service organization and to recompute the member's retired pay for all qualifying periods of employment.

Affected Public: Individuals; business or other for-profit institutions; and not-for-profit institutions.

Annual Burden Hours: 126.

Number of Respondents: 756.

Responses per Respondents: 1.

Average Burden per Response: 10 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection is used by all Service personnel retiring early who are potentially eligible for increased retirement compensation from employment with public or community service organizations and employers who are registered public or community service organizations.

During retirement processing conducted by the Services, personnel were advised of the certification process for public or community service employment within the enhanced retirement qualification period. When public or community service employment is found with a registered employing organization, the DD Form 2676, ''Validation of Public or Community Service Employment.'' is completed by both the retiree and the employer. Employers certify full-time, paid employment (full-time employment is defined by the organization concerned, but is typically at least 33 hours per week or 143 hours per month, including paid holidays and paid periods of leave or vacation). The retired personnel then complete their portion of the form and mail the validation form to the Defense Manpower and Data Center (DMDC) for review and processing in a data base designed for this program. To continue to receive credit, retired personnel employed in public or community service organizations submit the completed certified forms to DMDC annually on the anniversary of their retirement date. After the information is processed, DMDC will send retired personnel a statement of their certification account. At the end of the enhanced qualification period, retired personnel submit final completed certified forms to DMDC. Once final validation has been completed, the DMDC will transmit the data to either the Defense Finance and Accounting Service (DFAS) or the Coast Guard Finance Center for update of final pay information files. The forms will be maintained by the DMDC for a period of 5 years after the last day of the enhanced retirement qualification period. When retired personnel reach age 62, the Finance Centers will recomputed retirement benefits, adding whatever public or community service employment was validated during the enhanced retirement qualification period.

Dated: July 3, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–17260 Filed 7–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0107]

Federal Acquisition Regulation; Submission for OMB Review; Notice of Radioactive Materials

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning notice of radioactive materials. A request for public comments was published at 67 FR 6235, February 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and

clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 9, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Acquisition Policy Division, GSA (202) 202–7279.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.223–7, Notice of Radioactive Materials, requires contractors to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropriate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the contractor which will put users of the items on notice as to the hazards involved.

B. Annual Reporting Burden

Respondents: 500.
Responses Per Respondent: 5.
Annual Responses: 2,500.
Hours Per Response: 1.
Total Burden Hours: 2,500.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

Dated: July 3, 2002.

Jerry Olson,

Acting Director, Acquisition Policy Division.

[FR Doc. 02–17348 Filed 7–9–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0071]

Federal Acquisition Regulation; Submission for OMB Review; Price Redetermination

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0071).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning price redetermination. A request for public comments was published in the **Federal Register** at 67 FR 18178 on April 15, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 9, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

Fixed-price contracts with prospective price redetermination provide for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. Fixed price contracts with retroactive price redetermination provide for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The information is used to establish fair price adjustments to Federal contracts.

B. Annual Reporting Burden

Respondents: 3,500.
Responses Per Respondent: 2.
Annual Responses: 7,000.
Hours Per Response: 1.
Total Burden Hours: 7,000.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: July 2, 2002.

Jerry Olson,

Acting Director, Acquisition Policy Division.

[FR Doc. 02–17349 Filed 7–9–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0142]

Federal Acquisition Regulation; Information Collection; Past Performance Information

AGENCIES: Department of Defense (DOD), General ServicesAdministration (GSA), and National Aeronautics and SpaceAdministration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning past performance information. The clearance currently expires on August 31, 2002.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before September 9, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Acquisition Policy Division, GSA (202) 208–7279.

SUPPLEMENTARY INFORMATION:

A. Purpose

Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. When past performance is to be evaluated, the rule states that the solicitation shall afford offerors the opportunity to identify Federal, state and local government, and private contracts performed by offerors that were similar in nature to the contract being evaluated.

B. Annual Reporting Burden

Respondents: 150,000.
Responses Per Respondent: 4.
Annual Responses: 600,000.
Hours Per Response: 2.
Total Burden Hours: 1,200,000.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0142, Past Performance Information, in all correspondence.

Dated: July 3, 2002.

Jerry Olson,

Acting Director, Acquisition Policy Division.

[FR Doc. 02–17350 Filed 7–9–02; 8:45 am]

BILLING CODE 6820–EP

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, August 6, 2002.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia .

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. this opt-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 553b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: July 3, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–17256 Filed 7–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Change of Meeting Date of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, July 25, 2002.

ADDRESSES: The meeting will be held at the Seaside Room, Hyatt Monterey, 1 Old Golf Course Drive, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. the microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: July 3, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–17257 Filed 7–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, July 23, 2002.

ADDRESSES: The meeting will be held at Palisades Institutes for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d)) it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: July 3, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–17258 Filed 7–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, July 24, 2002.

ADDRESSES: The meeting will be held at the Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Carr, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories, The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: July 3, 2002.

Patricia L. Toppings,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–17259 Filed 7–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board, Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: 14–25 July 2002.

Times(s) of Meeting: 0900–1700.

Place: Irvine, California.

1. AGENDA: The Army Science Board FY02 Summer Study on ''Ensuring the Financial Viability of the Objective Force'' is holding a 2002 Summer Study Report Writing Session. The Session will be held at the Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering in Irvine, CA. The Session will begin at 0900 hours on July 14, 2002 and will end at approximately 1700 hours on July 25, 2002. For further information/registration, please contact the Army Science Board—703–604–7461.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 02–17459 Filed 7–9–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; JT USA, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to JT USA, Inc. a revocable, non-assignable, exclusive license to practice in the United States, the Government-owned invention described in U.S. Patent No. 6,145,441, entitled ''Frangible Payload Dispensing Projectile,'' issued November 14, 2000, Navy Case No. 78,561.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Coastal Systems Station, Dahlgren Div, NSWC, 6703 W. Hwy 98, Code XP01L, Panama City, FL 32407–7001.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey A. Gilbert, Counsel, Coastal Systems Station, 6703 W. Hwy 98, Code XP01L, Panama City, FL 32407–7001, telephone (850) 234–4646, fax (850) 235–5497, or E-Mail at *gilbertha@ncsc.navy.mil.*

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: June 25, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–17254 Filed 7–9–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; SeliCor, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to SeliCor, Inc., a revocable, nonassignable, exclusive license to practice worldwide the Government-owned inventions described in U.S. Patent No. 6,094,599 issued 25 July 2000, entitled ''RF Diathermy and Faradic Muscle Stimulation''; in the field of Body-Friendly Radio-Frequency (RF) warming devices.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

Dated: June 20, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–17253 Filed 7–9–02; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Interim Management of Nuclear Materials

AGENCY: Department of Energy.

ACTION: Supplemental record of decision.

SUMMARY: On December 12, 1995, the U.S. Department of Energy (DOE) issued a Record of Decision (ROD) and Notice of Preferred Alternatives, 60 FR 65300 (December 19, 1995), for the final environmental impact statement, Interim Management of Nuclear Materials (IMNM EIS) (DOE/EIS–0220, October 1995), at the Savannah River Site (SRS), Aiken, South Carolina. As part of that ROD, DOE decided to stabilize plutonium-239 solutions stored in H-Canyon by one of three methods: processing to metal in FB-Line, processing to oxide in H-Area facilities, or vitrification in F-Canyon. In that same ROD, the Department announced that ''a subsequent Record of Decision will be issued to specify the final strategy for stabilizing the plutonium-239 solutions'' (60 FR 65302). DOE issued a Supplemental ROD on September 6, 1996 (61 FR 48474, September 13, 1996), selecting the Process to Metal alternative for managing the H-Canyon plutonium-239 solutions. DOE subsequently amended this decision (62 FR 61099, November 14, 1997) and instead selected the Process to Oxide alternative for managing these solutions.

Now, after further review of stabilization costs, schedules, and program requirements, DOE has decided to implement the Processing and Storage for Vitrification in the Defense Waste Processing Facility alternative as well as the Process to Oxide alternative previously selected for the management of the H-Canyon plutonium solutions. The environmental impacts of the newly-selected alternative were analyzed in the IMNM EIS. This alternative includes the transfer of the solutions to the SRS high-level waste (HLW) system, vitrification of the liquid HLW in the Defense Waste Processing Facility, and storage of the resultant canisters in appropriate waste storage facilities at the SRS pending disposal in a geologic repository.

FOR FURTHER INFORMATION: For further information on the interim management of nuclear materials at the SRS, to receive a copy of the final IMNM EIS or the IMNM ROD(s), contact: Andrew R. Grainger, National Environmental Policy Act (NEPA) Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, Building 730B, Room 2418, Aiken, South Carolina 29802, (800) 881–7292. Internet: *drew.grainger@srs.gov.*

For further information on the DOE NEPA process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

NEPA Reviews and Decisions

The U.S. Department of Energy (DOE) prepared a final environmental impact statement, Interim Management of Nuclear Materials (IMNM EIS) (DOE/EIS–0220, October 1995), in accordance with the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations implementing NEPA, and DOE implementing procedures. The IMNM EIS assessed the potential environmental impacts of actions necessary to safely manage nuclear materials at the SRS, near Aiken, South Carolina, until decisions on their future use or ultimate disposition are made and implemented. The IMNM EIS grouped the nuclear materials at the SRS into three categories: Stable, Programmatic (three material types), and Candidates for Stabilization (seven material types). Some of the ''Programmatic'' and all of the ''Candidates for Stabilization'' materials could have presented environmental, safety and health vulnerabilities in their then-current storage condition. For materials that could present environmental, safety, or health vulnerabilities within approximately 10 years of the NEPA analysis (performed in 1995), the implementation of the IMNM EIS action alternatives would allow safe storage of plutonium and uranium materials pending decisions and actions on the ultimate disposition of the materials.

The IMNM EIS analyzed several alternatives, including the No Action alternative (Continued Storage), for the interim management of eleven (11) types of nuclear materials at the SRS. All of the alternatives, except No Action, would support DOE's objective of removing nuclear materials from vulnerable conditions and from vulnerable facilities in preparation for facility decontamination and decommissioning. For ten of these material types (all but Stable), DOE evaluated the impacts of the Processing for Storage and Vitrification in the Defense Waste Processing Facility alternative. The previously-issued

IMNM RODs include decisions to undertake stabilization and processing actions for all ten nuclear material types categorized as ''Candidates for Stabilization'' and ''Programmatic.'' DOE decided to continue existing actions for the ''Stable'' nuclear material category.

On December 12, 1995, DOE issued a Record of Decision (ROD) and Notice of Preferred Alternatives [60 FR 65300, published December 19, 1995], on the interim management of several categories of nuclear materials at the SRS. As part of that ROD, DOE decided to stabilize plutonium-239 solutions stored in H-Canyon by one of three methods: processing to metal in FB-Line, processing to oxide, or by vitrification in F-Canyon. In that same ROD, DOE announced that a subsequent ROD would be issued to select a final strategy for managing these solutions. Accordingly, DOE issued a Supplemental ROD on September 6, 1996 (61 FR 48474, September 13, 1996), selecting the Process to Metal alternative for managing the H-Canyon plutonium-239 solutions. DOE subsequently amended this decision (62 FR 61099, November 14, 1997) and instead selected the Process to Oxide alternative for managing these solutions.

Potential Environmental Impacts

The IMNM EIS analyzed potential impacts of alternatives for managing all SRS nuclear materials, both those materials that were expected to present environment, safety, or health vulnerabilities, as well as those determined to be stable. Summaries of potential impacts from the alternatives are presented in the IMNM EIS, Table 2–2 through Table 2–12 (pp. 2–48 through 2–58).

The IMNM EIS indicated that there would be minimal environmental impacts from the implementation of any alternative (including stabilization in the Defense Waste Processing Facility) in the areas of geologic, ecological, cultural, aesthetic and scenic resources, noise, and land use. Impacts in these areas would be limited because facility modifications or construction of new facilities would occur within existing buildings or industrialized portions of the SRS. The existing SRS workforce would support any construction projects and other activities required to implement any of the alternatives, and thus negligible socioeconomic impacts would be expected from implementing any of the alternatives.

Emissions of hazardous air pollutants and releases of hazardous liquid effluents from any of the alternatives would be very small and well within, often by several orders of magnitude, applicable standards and existing regulatory permits for the SRS facilities. DOE expects minimal impacts from any of these releases. Similarly, for any of the IMNM EIS alternatives, potential transuranic waste, mixed hazardous waste, and low-level solid waste generated would be handled by existing waste management (treatment, storage, and disposal) facilities at the SRS.

Processing for Storage and Vitrification in the Defense Waste Processing Facility

While the IMNM EIS indicates that potential environmental impacts from any of the nuclear material management alternatives are small, those management alternatives requiring the processing of nuclear material through the large chemical separations facilities (F- or H-Canyon and FB- or HB-Line), or processing plutonium materials for vitrification in the Defense Waste Processing Facility, would have the greatest environmental impacts during the time that dissolving, processing or conversion activities are underway, as compared to the time when these facilities are merely storing nuclear materials. The plutonium within the H-Canyon plutonium solutions had already been dissolved and transferred to storage tanks at the time the IMNM EIS was prepared. The impacts of storage of these solutions were fully evaluated in the IMNM EIS.

The IMNM EIS describes several technical challenges that would have to be overcome in order to stabilize plutonium solutions using the HLW system and the Defense Waste Processing Facility. Since the preparation of the IMNM EIS, technical and operational developments have led DOE to reassess this alternative for the H-Canyon plutonium solutions. As a result, DOE has determined that the two primary challenges described in the IMNM EIS, prevention of nuclear criticality for significant quantities of plutonium solutions, and management of the solutions in the SRS Tank Farm, have now been overcome. Specifically, the reassessment indicates that: (1) Gadolinium is a suitable alternate neutron poison for quantities of plutonium of a criticality concern; (2) gadolinium is compatible with the existing Canyon and HLW processes; (3) very little dilution is expected to be required, so that there would be only a slight increase in the number of waste canisters required to be produced at the Defense Waste Processing Facility; and (4) the transferred plutonium solution could be sent directly from H-Canyon to the Defense Waste Processing Facility feed tank and vitrified with the subsequent sludge batch, thereby bypassing the Tank Farm.

For that portion of the H-Canyon plutonium solutions managed under this approach, implementation of the Processing and Storage for Vitrification in the Defense Waste Processing Facility alternative would avoid the impacts of processing the solutions through HB-Line, and the impacts of the subsequent packaging and storage of the resultant plutonium oxide. Additionally, by vitrifying the plutonium in HLW canisters at the Defense Waste Processing Facility, the plutonium would be stabilized in a form suitable for ultimate disposition in a geologic repository. In the IMNM EIS, DOE evaluated the impacts of the Processing and Storage for Vitrification in the Defense Waste Processing Facility for the H-Canyon plutonium solutions, and found the potential impacts to be similar to the impacts of the Process to Metal or the Process to Oxide alternatives.

Environmentally Preferable Alternative

The IMNM EIS indicated that while certain management alternatives are expected to result in lower environmental impacts than others, a single alternative was rarely estimated to have lower impacts for all environmental factors evaluated by DOE. The health effects from any of the alternatives are all low and well within regulatory limits. In its December 1995 ROD (60 FR 65300), DOE indicated that the environmentally preferable alternative for the H-Canyon plutonium solutions was the ''Vitrification (F-Canyon)'' alternative. This alternative would have involved use of equipment that would have been installed in a portion of F-Canyon for vitrification of certain programmatic material. However, DOE subsequently cancelled this project (66 FR 55166, November 1, 2001) due to project cost growth and schedule extension. Of the remaining alternatives, DOE believes that the Process to Oxide alternative is the environmentally preferable alternative for the H-Canyon plutonium solutions. The Process to Oxide alternative would result in the smallest health effects and less HLW, low-level radioactive waste, and saltstone waste, although it would result in greater volumes of transuranic and mixed waste than the Processing for Storage and Vitrification in the Defense Waste Processing Facility alternative.

Decision

After review of plutonium stabilization costs, facility operation schedules, and programmatic requirements, including preparation of

material for disposition, DOE is supplementing its November 1997 Supplemental ROD (62 FR 61099) in regard to stabilization of plutonium solutions stored in H-Canyon. DOE will stabilize these solutions using either the Processing and Storage for Vitrification in the Defense Waste Processing Facility alternative, as described and evaluated in the IMNM EIS, or the previously selected Process to Oxide alternative. Under the newly-selected alternative, the solutions will be transferred to the HLW system prior to vitrification with HLW in the Defense Waste Processing Facility.

Using both of these methods will allow DOE to optimize the use of the HB-Line Phase II facility for plutonium-239 and neptunium-237 stabilization. Implementation of this additional management method will reduce the amount of plutonium that would need to be processed to meet the plutonium storage standard (DOE–STD–3013), reduce vault storage space requirements for plutonium and the associated storage container, lower vault surveillance and maintenance costs, and enable the plutonium to be ultimately disposed of in a geologic repository. There is no programmatic need for the plutonium contained in these solutions.

Issued at Washington, DC, June 26, 2002.

Jessie Hill Roberson,

Assistant Secretary for Environmental Management.

[FR Doc. 02–17283 Filed 7–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, July 13, 2002, 6 p.m.–9 p.m.

ADDRESSES: Crosby Senior Center, 8910 Willey Road, Hamilton, OH.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, Phoenix Environmental, 6186 Old Franconia Road, Alexandria, VA 22310, at (703) 971–0030 or (513) 648–6478, or e-mail; *djsarno@theperspectivesgroup.com.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6 p.m. Opening Remarks and Updates

6:15 p.m. Conceptual Design Education Center

7:15 p.m. Draft Report on Public Records Feasibility Study

8:15 p.m. Fernald Performance Management Plan

8:45 p.m. Public Comment

9 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, c/o Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on July 3, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–17284 Filed 7–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

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), Idaho National Engineering and Environmental Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES:

Tuesday, July 16, 2002—8 a.m.–6 p.m.,
Wednesday, July 17, 2002—8 a.m.–5 p.m.

Public participation sessions will be held on:

Tuesday, July 16, 2002—12:15–12:30 p.m, 5:45–6 p.m.
Wednesday, July 17, 2002—11:45–12 noon, 4–4:15 p.m.

These times are subject to change as the meeting progresses. Please check with the meeting facilitator to confirm these times.

ADDRESSES: Ameritel Inn, 645 Lindsay Boulevard, Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Lowe, Idaho National Engineering and Environmental Laboratory (INEEL) Citizens' Advisory Board (CAB) Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, Phone (208) 522–1662 or visit the Board's Internet home page at *http://www.ida.net/users/cab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

Tentative Agenda Topics: (Agenda topics may change up to the day of the meeting. Please contact Jason Associates for the most current agenda or visit the CAB's Internet site at *http://www.ida.net/users/cab/.*)

- State of Idaho and Environmental Protection Agency reactions to the Baseline Risk Assessment and Remedial Investigation for Waste Area Group 7
- Final Idaho High-Level Waste and Facilities Disposition Environmental Impact Statement
- Status report on the cleanup at the Test Area North (including the V tanks)

• Principles for relating cost and risk to priority

• The effects of funding instability and the five-year funding approach

• INEEL Contractor's responsibilities for community development and planned workforce restructuring

• Several specific initiatives listed on the INEEL Strategic Plan, including the National Security Strategies, the Western Regional Fossil Energy Test Facility, the Energy Security Strategies, and whole crop utilization

• The site wide air permit

• Approach and status at Pit 9

• Potential topics for future consideration

Public Participation: This meeting is open to the public. Written statements may be filed with the Board facilitator either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Request 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, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments. Additional time may be made available for public comment during the presentations. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Minutes will also be available by writing to Ms. Wendy Lowe, INEEL CAB Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402 or by calling (208) 522–1662.

Issued at Washington, DC on July 3, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–17286 Filed 7–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension with revisions under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*).

DATES: Comments must be filed by August 9, 2002. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail (BAllen@omb.eop.gov) is recommended. The mailing address is 726 Jackson Place N.W., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3087. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: A copy of the materials submitted to OMB is available at *http://www.eia.doe.gov/cneaf/electricity/page/form_417/form_417.html.* Requests for additional information should be directed to Herbert Miller. To ensure timely receipt of any comments sent to EIA, submission by FAX (202–287–1705) or e-mail (*herbert.miller@eia.doe.gov*) is recommended. Mr. Miller's mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 287–1711.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (*i.e.*, the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.,* new, revision, extension, or reinstatement); (5) response obligation (*i.e.,* mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.*, the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form EIA–417, ''Electric Emergency Incident and Disturbance Report''

2. Energy Assessment/Office of Emergency Management

3. OMB Number 1901–0288

4. Revision and three-year approval requested—The EIA–417 was previously submitted to OMB in March 2002. That request was withdrawn in May to allow additional time for consultations and refinement of the information collection.

Changes to the information collection from the earlier request are:

(a) Who must respond—this section on the form and instructions was changed so that electric utilities would file the form if an incident occurs. The reporting obligation for the utilities that handle reliability authority functions was reduced. All electric utilities, including those that operate Control Area Operator functions and Reliability Authority (RA) functions, will be required to supply information. RA's will not be required to file the number of customers lost and amount of power lost when the incidents occur.

(b) Confidentiality—There will be a pledge of confidentiality for all information supplied on Schedule II and any attachments filed with Schedule II.

(c) For the Preliminary Report (Schedule I), reporting of estimates and ''unknown at this time'' have been added for many categories.

(d) For the reporting of 50,000 customers or more lost during an outage, it has been clarified that the outage must last longer than an hour.

(e) An option has been granted to permit utilities to file reports of suspected malicious or intentional incidents (physical or cyber/computer/telecom) directly from the divisions in the utilities to the Department.

5. Mandatory

6. Form EIA–417 collects information on electric emergency incidents and disturbances for DOE's use in fulfilling its overall national security and other

energy management responsibilities. The information will also be used by DOE for analytical purposes. All electric utilities, including those that operate Control Area Operator functions and Reliability Authority functions, will be required to supply information when an incident or disturbance meets a reporting threshold.

7. Business or other for-profit; State, local or tribal government

8. 7,310 hours (3330 respondents × 2.215 hours per response) annually. This burden estimate includes time for training personnel on the reporting requirements.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13)(44 U.S.C. 3501 *et seq*).

Issued in Washington, DC, July 3, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–17285 Filed 7–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–86–000, et al.]

The AES Corporation, et al.; Electric Rate and Corporate Regulation Filings

July 2, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. The AES Corporation, AES Capital Funding, LLC, AES NewEnergy, Inc., Constellation Energy Group, Inc., CEG Acquisition, LLC

[Docket No. EC02–86–000]

Take notice that on June 27, 2002, The AES Corporation, AES Capital Funding, LLC, AES NewEnergy, Inc., Constellation Energy Group, Inc., and CEG Acquisition, LLC tendered for filing with the Federal Energy Regulatory Commission a Joint Application for Expedited Approval of the Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act, pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b (2000).

Comment Date: July 18, 2002.

2. San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator and the California Power Exchange, Investigation of Practices of the California Independent System Operator and the California Power Exchange, Public Meeting in San Diego, California, Reliant Energy Power Generation, Inc., Dynegy Power Marketing, Inc., and Southern Energy California, L.L.C. v. California Independent System Operator Corporation, California Electricity Oversight Board v. All Sellers of Energy and Ancillary Services Into the Energy and Ancillary Services Markets Operated by the California Independent System Operator and the California Power Exchange, California Municipal Utilities Association v. All Jurisdictional Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Californians for Renewable Energy, Inc. (CARE) v. Independent Energy Producers, Inc., and All Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange; All Scheduling Coordinators Acting on Behalf of the Above Sellers; California Independent System Operator Corporation; and California Power Exchange Corporation, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council

[Docket Nos. EL00–95–063, EL00–98–052, EL00–107–011, EL00–97–005, EL00–104–010, EL01–1–011, EL01–2–005, and EL01–68–015]

Take notice that on June 24, 2002, the California Independent System Operator Corporation (ISO) submitted a compliance report as required by the Commission's May 15, 2002 ''Order Accepting in Part and Rejecting in Part Compliance Filing,'' 99 FERC ¶ 61,158, issued in the above-referenced dockets. The ISO states that it has served the filing upon all entities that are on the official service lists for the above-referenced dockets.

Comment Date: July 15, 2002.

3. Alliance Companies, et al. and National Grid USA

[Docket No. EL02–65–008]

Take notice that on June 25, 2002, American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company) (AEP), Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd), and Illinois Power Company (Illinois Power), filed a Memorandum Of Understanding Among And Between PJM Interconnection, L.L.C., National Grid USA, And Participants In The Independent Transmission Company (MOU), including Attachments A and B. The filing is intended to supplement the information provided in the reports filed by AEP, ComEd and Illinois Power on May 28, 2002 in this proceedings.

Comment Date: July 12, 2002.

4. Cleco Power LLC, Dalton Utilities, Entergy Services, Inc., Georgia Transmission Corporation, MEAG Power, Sam Rayburn G&T Electric Coop., Inc., South Carolina Public Service Authority, South Mississippi Electric Power Association, Southern Companies Services, Inc., Tallahassee, City of

[Docket No. EL02–101–000]

Take notice that on June 27, 2002, Cleco Power LLC, Dalton Utilities, Entergy Services, Inc., Georgia Transmission Corporation, MEAG Power, Sam Rayburn G&T Electric Coop., Inc., South Carolina Public Service Authority, South Mississippi Electric Power Association, Southern Companies Services, Inc. and the City of Tallahassee, Florida, tendered for filing with the Federal Energy Regulatory Commission (Commission), a Petition for Declaratory Order pursuant to Rule 207 of the Commission's Rules of practice and procedure (18 CFR 385.207). The Petition for Declaratory order concerns the proposed SeTrans RTO.

Comment Date: July 29, 2002.

5. Sithe Edgar, LLC, Sithe New Boston, LLC, Sithe New Boston, LLC, Sithe Framingham, LLC, Sithe West Medway, LLC, Sithe Wyman, LLC, Sithe Mystic, LLC, Sithe Mystic Development LLC, Sithe Power Marketing, LP, Sithe Fore River Development, LLC, Exelon Generation Company, LLC, PECO Energy Company, Commonwealth Edison Company, Exelon Energy Company, AmerGen Energy Company, LLC, AmerGen Vermont, LLC, Unicom Power Marketing, Inc.

[Docket Nos. ER00–3691–003, ER01–42–003, ER99–2404–002, ER02–41–002, ER00–3251–004, ER96–641–001, ER98–1734–005, ER01–1919–001, ER99–754–007, ER00–1030–004, and ER97–3954–015]

Take notice that on June 26, 2002, the captioned utilities filed a notification of

change in status with respect to each entity's authority to engage in wholesale sales of capacity, energy, and ancillary services at market-based rates with respect to the acquisition by Exelon Generation Company, LLC, of all of the membership interests of Sithe New England Holdings, LLC, and the stock of Sithe AOG Holding # 1, Inc., and Sithe AOG Holding # 2, Inc.

Comment Date: July 17, 2002.

6. Indigo Generation LLC, Larkspur Energy LLC, and Wildflower Energy LP (collectively the Wildflower Entities'')

[Docket No. ER02–763–002]

Take notice that on June 26, 2002, Indigo Generation LLC, Larkspur Energy LLC and Wildflower Energy LP (collectively the Wildflower Entities) submitted their filing in compliance with the directives of the Commission in a letter order dated June 11, 2002 in the above-captioned dockets.

Comment Date: July 17, 2002.

7. Nevada Power Company

[Docket No. ER02–1402–001]

Take notice that on June 26, 2002, Nevada Power Company tendered for filing its compliance filing making the changes to the executed Interconnection and Operation Agreement between Nevada Power Company and Reliant Entergy Bighorn, LLC required by the Commission's May 23rd letter order in this docket.

Comment Date: July 17, 2002.

8. New England Power Pool

[Docket No. ER02–2154–000]

Take notice that on June 26, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include FPL Energy Seabrook, LLC (FPLE Seabrook), and to terminate the membership of The New Power Company (NewPower). The Participants Committee requests an effective date for commencement of participation in NEPOOL by FPLE Seabrook as of the closing date of the sale of the Seabrook Nuclear Generating Station (the ''Station'') from the Joint Selling Owners of the Station and a June 1, 2002 effective date for the termination of NewPower.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: July 17, 2002.

9. Illinois Power Company

[Docket No. ER02–2155–000]

Take notice that on June 26, 2002, Illinois Power Company (Illinois Power), filed a Second Revised Service Agreement for Network Integration Transmission Service with MidAmerican Energy Company.

Illinois Power requests an effective date of June 1, 2002 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 17, 2002.

10. Illinois Power Company

[Docket No. ER02–2156–000]

Take notice that on June 26, 2002, Illinois Power Company (Illinois Power), filed a First Revised Service Agreement for Network Integration Transmission Service with Illinois Municipal Electric Agency.

Illinois Power requests an effective date of June 1, 2002 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 17, 2002.

11. Illinois Power Company

[Docket No. ER02–2157–000]

Take notice that on June 26, 2002, Illinois Power Company (Illinois Power), filed a Fifth Revised Network Integration Transmission Service Agreement with Dynegy Power Marketing, Inc.

Illinois Power requests an effective date of June 1, 2002 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 17, 2002.

12. Illinois Power Company

[Docket No. ER02–2158–000]

Take notice that on June 26, 2002, Illinois Power Company (Illinois Power), filed a Firm Short-Term Point-to-Point Transmission Service Agreement and a Non-Firm Point-to-Point Transmission Service Agreement entered into with Northern States Power Company.

Illinois Power requests an effective date of June 1, 2002 for the Agreements and seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 17, 2002.

13. Illinois Power Company

[Docket No. ER02–2159–000]

Take notice that on June 26, 2002, Illinois Power Company (Illinois Power), filed a Network Integration Transmission Service Agreement with The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc.

Illinois Power requests an effective date of June 1, 2002 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of the filing to the customer.

Comment Date: July 17, 2002.

14. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER02–2160–000]

Take notice that on June 26, 2002, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed First Revised Service Agreement No. 70 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply continues to requests a waiver of notice requirements to maintain the effective date of April 16, 2000 for First Revised Service Agreement No. 70 for service to First Energy Solutions Corporation.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment Date: July 17, 2002.

15. Boston Edison Company

[Docket No. ER02–2161–000]

Take notice that on June 26, 2002, Boston Edison Company (Boston Edison) tendered for filing an executed Interconnection Agreement between Boston Edison and the Town of Norwood Municipal Light Department. Boston Edison requests an effective date of the Agreement of May 27, 2002.

Comment Date: July 17, 2002.

16. BP West Coast Products

[Docket No. ER02–2162–000]

Take notice that on June 26, 2002, BP West Coast Products LLC (BP West Coast) submitted for filing a notice of cancellation pursuant to 18 CFR 35.15 to reflect the cancellation of its FERC Electric Tariff, Original Volume No. 1,

with a proposed effective date of June 21, 2002.

Comment Date: July 17, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17203 Filed 7–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–159–000, et al.]

Delaware Mountain Wind Farm, LP, et al.; Electric Rate and Corporate Regulation Filings

July 3, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Delaware Mountain Wind Farm, LP

[Docket No. EG02–159–000]

Take notice that on June 26, 2002, Delaware Mountain Wind Farm, LP (the Applicant), with its principal office at National Windpower plc, Riverside House, Meadowbank Furlong Road, Bourne End, Bucks UK—SL8 5AJ, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a limited partnership engaged directly and exclusively in the business of owning and operating an approximately 30 MW wind-powered generation facility located in Culberson County, Texas. Electric energy produced by the facility will be sold at wholesale.

Comment Date: July 24, 2002.

2. Pennsylvania Windfarms, Inc.

[Docket No. EG02–160–000]

Take notice that on June 26, 2002, Pennsylvania Windfarms, Inc. (the Applicant), with its principal office at National Windpower plc, Riverside House, Meadowbank Furlong Road, Bourne End, Bucks UK—SL8 5AJ, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a Delaware corporation engaged directly and exclusively in the business of owning and operating an approximately 10.4 MW wind-powered generation facility located in Somerset County, Pennsylvania. Electric energy produced by the facility will be sold at wholesale.

Comment Date: July 24, 2002.

3. Baconton Power LLC

[Docket No. EG02–161–000]

Take notice that on June 26, 2002, Baconton Power LLC , 1499 38th Blvd. N.W., Cairo, Georgia 30093, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Baconton Power LLC owns four 50 MW (nominal summer rating) dual fuel, simple cycle, combustion turbines located in northeast Mitchell County, south of Albany, Georgia on a 34 acre site approximately one mile northeast of Georgia State Highway 93. Baconton Power LLC previously has been determined to be an EWG but seeks a new determination as a result of certain upstream changes in the ownership of Baconton Power LLC.

Comment Date: July 24, 2002

4. SOWEGA Power LLC

[Docket No. EG02–162–000]

Take notice that on June 26, 2002, SOWEGA Power LLC (SOWEGA), 1499 38th Blvd. N.W., Cairo, Georgia 30093, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. SOWEGA owns two 50 MW (nominal summer rating) dual fuel, simple cycle, combustion turbines located in northeast Mitchell County, south of Albany, Georgia on a 34 acre site approximately one mile northeast of Georgia State Highway 93. SOWEGA previously has been determined to be an EWG but seeks a new determination as a result of certain upstream changes in the ownership of SOWEGA's parent, SOWEGA Energy Resources, LLC.

The notification discloses that upstream ownership interests in SOWEGA's parent, SOWEGA Energy Resources LLC (SER) will change as a result of an internal restructuring involving two of SER's owners. SOWEGA states that these upstream changes in ownership do not alter the continued eligibility of SOWEGA for status as an exempt wholesale generator.

Comment Date: July 24, 2002.

5. State of California v. British Columbia Power Exchange Corp., et al.

[Docket No. EL02–71–002]

Take notice that on June 27, 2002, Avista Corporation (Avista) tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing in accordance with the Order on Complaint issued on May 31, 2002 in the above-captioned proceeding.

Comment Date: July 29, 2002.

6. DTE East China, LLC

[Docket No. ER02–1599–001]

Take notice that on June 27, 2002, DTE East China, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) under Section 205 of the Federal Power Act revised tariff sheets to sell capacity and energy at negotiated rates up to a cost-based ceiling in compliance with the Commission's June 13, 2002 order in the above-captioned docket.

Comment Date: July 18, 2002.

7. Psi Energy, Inc.

[Docket No. ER02–1666–001]

Take notice that on June 27, 2002, Cinergy Services, Inc. (Cinergy), as agent for PSI Energy, Inc. (PSI), tendered for filing the Tenth Supplemental Agreement to the Interconnection Agreement between Indianapolis Power & Light Company (IPL) and PSI.

On April 26, 2002, Cinergy, as agent for PSI, submitted in this Docket the Seventh Amendment to the Ninth

Supplemental Agreement to the Interconnection Agreement between IPL and PSI. The proposed Seventh Amendment provided for the addition of a new interconnection point and a new metering point. However, the proposed Seventh Amendment did not conform with the Commission's requirements regarding the designation of electric rate schedules. Therefore, Cinergy submits the Tenth Supplemental Interconnection Agreement which incorporates the proposed Seventh Amendment, replaces the Ninth Supplemental Interconnection Agreement in its entirety and complies with the numbering provisions of Order 614.

Cinergy states that it has served a copy of the filing upon the Indiana Utility Regulatory Commission and Indianapolis Power & Light Company. Consistent with the April 26, 2002 filing in this Docket, Cinergy respectfully requests an effective date of May 1, 2002.

Comment Date: July 18, 2002.

8. California Independent System Operator Corporation

[Docket No. ER02–2163–000]

Take notice that on June 26, 2002, the California Independent System Operator Corporation (ISO) tendered for filing First Revised Service Agreement No. 368 under ISO Rate Schedule No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Point Arguello Pipeline Company (Point Arguello). The ISO has revised the PGA to update Schedule 1 of the PGA. The ISO requests that the revised PGA be made effective as of June 6, 2002.

The ISO states that this filing has been served on all entities that are on the official service list for Docket No. ER01–1953–000.

Comment Date: July 17, 2002.

9. Maine Public Service Company

[Docket No. ER02–2164–000]

Take notice that on June 26, 2002, Maine Public Service Company (Maine Public) submitted for filing an executed Service Agreement for Network Integration Transmission Service under Maine Public's open access transmission tariff with Eastern Maine Electric Cooperative, Inc.

Comment Date: July 17, 2002.

10. Attala Generating Company, LLC

[Docket No. ER02–2165–00]

Take notice that on June 26, 2002, Attala Generating Company, LLC (Attala) tendered for filing a Power Purchase Agreement for power sales (Agreement) with Attala Energy Company, LLC (Attala energy) pursuant to which Attala will sell electric wholesale services to Attala Energy at market-based rates according to its FERC Electric Tariff, original Volume No. 1.

Comment Date: July 17, 2002.

11. Pennsylvania Windfarms, Inc.

[Docket No. ER02–2166–000]

Take notice that on June 26, 2002, Pennsylvania Windfarms, Inc. tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Comment Date: July 17, 2002.

12. Baconton Power LLC

[Docket No. ER02–2167–000]

Take notice that on June 26, 2002, Baconton Power LLC tendered for filing a Second Amended and Restated Common Bus Common Ownership Agreement with SOWEGA Power LLC. This rate schedule is designated as Second Revised Baconton FERC Rate Schedule No. 1.

Comment Date: July 17, 2002.

13. SOWEGA Power LLC

[Docket No. ER02–2168–000]

Take notice that on June 26, 2002, SOWEGA Power LLC tendered for filing a Second Amended and Restated Common Bus Common Ownership Agreement with Baconton Power LLC. This rate schedule is designated as Second Revised SOWEGA FERC Rate Schedule No. 3.

Comment Date: July 17, 2002.

14. Baconton Power LLC

[Docket No. ER02–2169–000]

Take notice that on June 26, 2002, Baconton Power LLC (Baconton) filed a notice of termination of the First Revised Service Agreement No. 1 under Baconton's FERC Electric Tariff, Volume No. 1, the Amended and Restated Tolling Agreement between Baconton and Coral Power, L.L.C. (Coral). Baconton requests that the termination be made effective on the date Baconton and Coral enter into a new tolling agreement.

Comment Date: July 17, 2002.

15. Aquila, Inc.

[Docket No. ER02–2170–000]

Take notice that on June 26, 2002, Aquila, Inc. d/b/a Aquila Networks-MPS (Aquila), filed with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, 16 USC 824d, and Part 35 of the Commission's regulations, Service Agreement No. 22 to Aquila's Market Based Power Sales Tariff (Aquila FERC Electric Tariff No. 28). The service agreement is a Master Power Purchase and Sale Agreement Confirmation between Aquila and its affiliate Aquila Merchant Services, Inc.

Comment Date: July 17, 2002.

16. Public Service Company of New Mexico

[Docket No. ER02–2171–000]

Take notice that on June 28, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed amended and restated control area services agreement with Texas-New Mexico Power Company (TNMP), under the terms of PNM's Open Access Transmission Tariff. The agreement updates provisions of an existing control area services agreement between PNM and TNMP. PNM requests June 1, 2002, as the effective date for the agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to TNMP, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: July 19, 2002.

17. Auburndale Peaker Energy Center, L.L.C.

[Docket No. ER02–2172–000]

Take notice that on June 27, 2002, Auburndale Peaker Energy Center, L.L.C. filed an executed power marketing agreement under which it will make wholesale sales of capacity and electric energy to Calpine Energy Services, L.P. at market-based rates.

Comment Date: July 18, 2002.

18. Entergy Services, Inc.

[Docket No. ER02–2173–000]

Take notice that on June 27, 2002, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Louisiana and Occidental Chemical Corporation.

Comment Date: July 18, 2002.

19. Progress Energy, Inc. on behalf of MPC Generating, LLC

[Docket No. ER02–2174–000]

Take notice that on June 27, 2002, MPC Generating, LLC (MPC) tendered for filing an executed Service Agreement between MPC and the following eligible buyer, Progress Ventures, Inc. Service to this eligible buyer will be in accordance with the

terms and conditions of MPC's Market-Based Rates Tariff, FERC Electric Tariff No. 1.

MPC requests an effective date of June 1, 2002 for this Service Agreement. Copies of the filing were served upon the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Georgia Public Service Commission.

Comment Date: July 18, 2002.

20. Ameren Services Company

[Docket No. ER02–2176–000]

Take notice that on June 27, 2002, Ameren Services Company (Ameren Services) tendered for filing an unexecuted Network Operating Agreement and an unexecuted Service Agreement for Network Integration Transmission Service between Ameren Services and Edgar Electric Cooperative Association d/b/a EnerStar Power Corp. (EnerStar). Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to EnerStar pursuant to Ameren's Open Access Tariff.

Comment Date: July 18, 2002.

21. South Point Energy Center, LLC

[Docket No.ER02–2177–000]

Take notice that on June 27, 2002, South Point Energy Center, LLC filed a Notice of Cancellation of the Direct Power Transaction Confirmation under its market-based rate schedule in the above-referenced docket number, filed on August 20, 2001.

Comment Date: July 18, 2002.

22. Ameren Services Company

[Docket No.ER02–2179–000]

Take notice that on June 27, 2002, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service between ASC and Wisconsin Electric Power Company, Weststar Energy and Constellation Power Source (6) (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: July 18, 2002.

23. Sierra Pacific Power Company

[Docket No. ER02–2180–000]

Take notice that on June 27, 2002, Sierra Pacific Power Company (Sierra) tendered for filing pursuant to Section 205 of the Federal Power Act, an executed Electric Service Agreement (ESA) between Sierra and Pershing County. Under the ESA Sierra will provide wholesale electric service to the Pershing County Electric Utility, which serves the Humboldt River Ranches, a residential development located in rural Western Nevada. The ESA is being filed at the request of Sierra and Pershing County.

Sierra has requested that the Commission accept the ESA and permit service in accordance therewith effective January 15, 2002.

Comment Date: July 18, 2002.

24. Duquesne Light Company

[Docket No. ER02–2181–000]

Take notice that on June 27, 2002, Duquesne Light Company (DLC) filed a Service Agreement for Network Integration Transmission Service and a Network Operating Agreement for Transmission Service dated June 1, 2002 with Orion Power Midwest, L.P. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Orion Midwest, L.P. as a customer under the Tariff. DLC requests an effective date of June 1, 2002 for the Service Agreement.

Comment Date: July 18, 2002.

25. Southern Company Services, Inc.

[Docket No. ER02–2182–000]

Take notice that on June 27, 2002, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies) tendered for filing the Generator Balancing Service Agreement by and between Duke Energy Trading and Marketing, LLC (Duke) and Southern Companies (the Service Agreement) under Southern Companies' Generator Balancing Service Tariff (FERC Electric Tariff, First Revised Volume No. 9). The Service Agreement supplies Duke with unscheduled energy in connection with sales from Duke Energy Sandersville LLC's electric generating facility as a replacement for unintentional differences between the facility's actual metered generation and its scheduled generation. The Service Agreement (No. 9) is dated as of June 5, 2002, and shall terminate upon twelve months prior written notice of either party.

Comment Date: July 18, 2002.

26. Southern Company Services, Inc.

[Docket No. ER02–2183–000]

Take notice that on June 27, 2002, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies) tendered for filing the Generator Balancing Service Agreement by and between Duke Energy Trading and Marketing, LLC (Duke) and Southern Companies (the Service Agreement) under Southern Companies' Generator Balancing Service Tariff (FERC Electric Tariff, First Revised Volume No. 9). The Service Agreement supplies Duke with unscheduled energy in connection with sales from Duke Energy Murray LLC's electric generating facility as a replacement for unintentional differences between the facility's actual metered generation and its scheduled generation. The Service Agreement (No. 8) is dated as of June 5, 2002, and shall terminate upon twelve months prior written notice of either party.

Comment Date: July 18, 2002.

27. WPS Resources Operating Companies

[Docket No. ER02–2184–000]

Take notice that on June 27, 2002, the WPS Resources Operating Companies, on behalf of Wisconsin Public Service Corporation and Upper Peninsula Power Company (collectively, WPS Resources) tendered for filing a notice of cancellation and revised service agreement cover sheets (Cancellation Documents) to terminate service agreements between WPS Resources and its customers. The Cancellation Documents are being filed because WPS Resources is no longer providing service under the service agreements.

WPS Resources respectfully requests that the Commission allow the Cancellation Documents to become effective on June 28, 2002, the day after filing. Copies of the filing were served upon all customers under the WPS Resources open access transmission tariff, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment Date: July 18, 2002

28. Consumers Energy Company

[Docket No. OA96–77–002]

Take notice that on June 27, 2002, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission (Commission), the following substitute tariff sheets as part of its FERC Electric Tariff, Original Volume No. 1 in compliance with the March 27, 2002 order issued in this proceeding. They are being filed to correct certain errors in the original compliance filing dated May 13, 2002.

Substitute First Revised Sheet Nos. 87 and 89 and Substitute Second Revised Sheet Nos. 86, 88 and 115.

All of the sheets being filed are to become effective January 1, 1999. Copies of the filing were served upon those on the official service list in this proceeding.

Comment Date: July 29, 2002

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17364 Filed 7–9–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–2002–0019; FRL–7185–5]

Access to Confidential Business Information by Novus Consulting Group

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Novus Consulting Group of Manassas, VA access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data submitted to EPA under all sections of TSCA occurred as a result of an approved waiver dated May 21, 2002, which requested granting Novus Consulting Group immediate access to all sections of TSCA CBI.

FOR FURTHER INFORMATION CONTACT: Barbara A. Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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/.

III. What Action is the Agency Taking?

Under contract number GS–35F–4120D, Novus Consulting Group of 7221 Gateway Court, Manassas, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in conducting a disaster recovery assessment of the OPPT systems operation and back-up storage process. They will also be reviewing the current process in place for recovering information stored and backed up on the Administrative and CBI LAN.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–35F–4120D, Novus Consulting Group will require access to CBI submitted to EPA under all sections of TSCA, to perform successfully the duties specified under the contract.

Novus Consulting Group's personnel was given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA, that the Agency may provide Novus Consulting Group access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters.

Novus Consulting Group will be required to adhere to all provisions of EPA's *TSCA Confidential Business Information Security Manual*.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2002.

Novus Consulting Group personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: July 1, 2002.

Allan A. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–17192 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7243–4]

Underground Injection Control Program Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Cytec Industries, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on no migration petition reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Cytec Industries, Inc. (Cytec) for five Class I injection wells located at Westwego, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Cytec, of the specific restricted hazardous wastes identified in the exemption, into Class I hazardous waste injection wells Nos. 93–07 WD 1, 93–07 WD 2, 93–07 WD 3, 98–13 WD 4B, and 93–07 WD 5, until

June 30, 2016, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. Additional conditions included in this final decision may be reviewed by contacting the Region 6 Ground Water/UIC Section. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued May 1, 2002. The public comment period closed on June 17, 2002. No comments were received. This decision constitutes final Agency action.

DATES: This action is effective as of June 27, 2002.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Miguel I. Flores,

Director, Water Quality Protection Division (6WQ).

[FR Doc. 02–17243 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7243–6]

Notice of Open Meeting, Environmental Financial Advisory Board, August 19–20, 2002

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in San Francisco, California on August 19–20, 2002. The meeting will be held at the Bankers Club, Bank of America Building, in the Pacific Room. The Monday, August 19 session will run from 9 a.m. to 5 p.m. and the August 20 session will begin at 8:30 a.m. and end at 11:30 am.

EFAB is chartered with providing analysis and advice to the EPA Administrator on environmental finance. The purpose of this meeting is to discuss progress with work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's ongoing and new activities. Environmental financing topics expected to be discussed include: cost-effective environmental management; international and energy initiatives; superfund and brownfields initiatives; and public finance issues.

The meeting is open to the public, but seating is limited. For further information, please contact Vanessa Bowie, EFAB Coordinator, U.S. EPA on (202) 564–5186.

Dated: June 26, 2002.

Maryann Froehlich,

Deputy Comptroller.

[FR Doc. 02–17237 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0029; FRL–7186–7]

Endocrine Disruptor Methods Validation Subcommittee under the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a meeting of the Endocrine Disruptor Methods Validation Subcommittee (EDMVS), a subcommittee under the National Advisory Council for Environmental Policy and Technology (NACEPT), a Federal Advisory Committee, on July 23–24, 2002. The EDMVS will provide technical advice on screening and testing methods for the Endocrine Disruptor Screening Program (EDSP). This meeting, as with all EDMVS meetings, is open to the public. Seating is on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Jane Smith at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting, so appropriate arrangements can be made.

DATES: The meeting will be held on July 23, 2002, from 9 a.m. to 5:45 p.m. and July 24, from 8:30 a.m. to 12:30 p.m. (eastern daylight time).

ADDRESSES: The meeting will be held at RESOLVE, 1255 23rd St., NW., Suite 275, Washington, DC. The telephone number for RESOLVE is: (202) 944–2300. The nearest Metro stop is Foggy Bottom.

FOR FURTHER INFORMATION CONTACT: Jane Smith, Designated Federal Official, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8476; fax number: (202) 564–8483; e-mail address: smith.jane-scott@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, potentially affect you if you produce, manufacture, use, consume, work with, or import pesticide chemical substances that may have an effect that is cumulative to an effect of a pesticide, or substances found in sources of drinking water. To determine whether you or your business may be affected by this notice you should carefully examine section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Public Law 104–170), 21 U.S.C. 346A(p), and amendments to The Safe Drinking Water Act (Public Law 104–182), 42 U.S.C. 300j-17. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *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 search for ''Endocrine Disruptor'' which will take you to the OSCP Endocrine Disruptor web site. You can also 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 list of the EDMVS members and meeting materials are available at: http://www.epa.gov/scipoly/oscpendo/edmvs.htm, and in the public Docket.

2. *In person*. The Agency has established an official record for this meeting under docket ID number OPPT–2002–0029. The official record consists of the documents specifically referenced in this notice, any public comments received, and other information related to Endocrine Disruptor Method Validation, including any information claimed as Confidential Business Information (CBI). The public version of the official record is available for inspection in the TSCA Nonconfidential Information Center, North East Mall, Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is

open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How Can I Request to Participate in this Meeting?

In accordance with the Federal Advisory Committee Act (FACA), the public is encouraged to submit written comments on this meeting's topics. The EDMVS will have a brief period available during the meeting for public comment. It is the policy of the EDMVS to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EDMVS expects that public statements presented at its meetings will be on the meeting topic and not be repetitive of previously submitted oral or written statements.

You may submit a request to participate in the meeting by e-mail, telephone, fax, or in person. We would normally accept requests by mail, but in this time of delays in delivery of government mail due to health and security concerns, we cannot assure your request would arrive in a timely manner. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before July 18, 2002. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0029 in the subject line on the first page of your request.

1. *Electronically.* You may submit your request electronically by e-mail to Jane Smith at: smith.jane-scott@epa.gov or to the docket at: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket ID number OPPT–2000–0029.

2. *By telephone or fax.* Contact Jane Smith, by telephone at (202) 564–8476 or by fax number at (202) 564–8483.

3. *In person or by courier.* You may deliver a request to: OPPT Docket Control Office, North East Mall, Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Docket Office is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Office is (202) 260–7099.

II. Background

A. History

In 1996, through enactment of the Food Quality Protection Act, which amended the Federal Food, Drug, and Cosmetic Act, Congress directed EPA to develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have hormonal effects in humans. In 1996, EPA chartered a scientific advisory committee, the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), under the authority of FACA to advise it on establishing a program to carry out Congress' directive. EDSTAC recommended a multi-step approach including a series of screens (Tier 1 Screens) and tests (Tier 2 Tests) for determining whether a chemical substance may have an effect similar to that produced by naturally occurring hormones. EPA adopted almost all of EDSTAC's recommendations in the Program that it developed, the Endocrine Disruptor Screening Program (EDSP), to carry out Congress' directive. EDSTAC also recognized that there currently are no validated test systems for determining whether a chemical may have an effect in humans that is similar to an effect produced by naturally occurring hormones. Consequently, EPA is in the process of developing and validating the screens and tests that EDSTAC recommended for inclusion in the EDSP. In carrying out this validation exercise, EPA is working closely with, and adhering to the principles of the Interagency Coordinating Committee for the Validation of Alternate Methods (ICCVAM). EPA also is working closely with the Organization for Economic Cooperation and Development's (OECD), Endocrine Testing and Assessment Task Force to validate and harmonize endocrine screening tests of international interest. To ensure that EPA has the best and most up-to-date advice available regarding the validation of the screens and tests in the EDSP, EPA recently chartered the Endocrine Disruptor Methods Validation Subcommittee (EDMVS) of the National Advisory Council for Environmental Policy and Technology (NACEPT). EDMVS provides independent advice and recommendations to the Agency through NACEPT, on scientific and technical issues related to validation of the EDSP Tier I screens and Tier II tests, including advice on ways to reduce animal use, refining procedures involving animals to make them less stressful, and replacing animals where scientifically appropriate. More information is available on the website: http://www.epa.gov/scipoly/oscpendo/edmvs.htm.

B. Previous Meeting

The EDMVS has met four times since its establishment in September 2001. The objectives of the October 2001 meeting (Docket OPPT–42212D) were for EPA to provide:

1. An overview of EPA's Endocrine Disruptor Program.

2. Background information on test protocol validation and approaches.

3. For the EDMVS to develop a clear understanding of their scope, purpose, and operating procedures.

4. For the EDMVS and the EDSP to determine the next steps.

The objectives of the December 2001 meeting (Docket OPPT–42212E) were for the EDMVS to provide input and advice on:

1. The EDMV'S mission statement and work plan.

2. The *in utero* through lactation assay detailed review paper.

3. The pubertal assay study design for the multi-dose and chemical array protocols.

4. The mammalian 1-generation study design.

The objectives of the March 2002 meeting (Docket OPPT–42212F) were for the EDMVS to provide input and advice on:

1. EDSP's implementation process and practical aspects of validation; the *in utero* through lactation assay protocol.

2. The fish reproduction assay detailed review paper.

3. Special studies on fathead minnow assays, vitellogenin assay, and avian dosing protocol.

4. The aromatase detailed review paper.

5. A proposed standard suite of chemicals for testing in the Tier 1 screening assay.

6. EDSP presenting the current efforts related to evaluating the relevance of animal data to human health.

7. EPA's approach to addressing low dose issues.

The objectives of the June 2002 teleconference/meeting (docket ID number OPPT–2002–0029) was for the EDMVS to provide input and advice on the steroidogenesis detailed review paper.

III. Meeting Objectives for the July 2002 Meeting

The draft objectives of the July 2002 meeting docket ID number OPPT–2002–0029 is for the EDMVS to provide input and advice on:

1. The pubertals - special study: restricted feeding.

2. The mammalian 2-generation PTU special study (Tier II).

3. The amphibian metamorphosis detailed review paper (Tier I).

4. The invertebrate detailed review paper (Tier II).

5. For the EDSP to provide information on:

- Criteria for screens - review of EDSTAC recommendations.
- The ICCVAM-NICEATM expert panel meeting on *in vitro* ER/AR assays.
- An update on core chemicals selected by EDSP.
- General dose setting issues. (Tentative)

List of Subjects

Environmental protection, Endocrine disruptor screening program, Endocrine disruptors.

Dated: July 2, 2002.

Sherell A. Sterling,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 02–17309 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7243–7]

EPA Science Advisory Board Notification of a Change in Public Advisory Committee Meeting of the SAB Executive Committee; Cancellation and Re-scheduling

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the meeting of the U.S. EPA Science Advisory Board (SAB) Executive Committee scheduled for July 16–17, 2002, and previously announced in 67 FR 41722, June 19, 2002, has been cancelled.. It will be re-scheduled at a later date. Instead, a Teleconference meeting of the Executive Committee will take place as noted below.

1. Executive Committee of the EPA Science Advisory Board—July 16, 2002—Teleconference Meeting

The Executive Committee (EC) of the U.S. EPA Science Advisory Board (SAB) will meet via public teleconference on Tuesday, July 16, 2002. The meeting will be hosted out of in a publicly accessible conference call convened in the SAB Conference Room (Room 6013, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004). The meeting will begin at 11 a.m. and adjourn no later than 2 pm Eastern Time. This meeting is open to the public; however, seating is limited and available on a first come basis. Information on how to access the meeting via conference call is available from Ms. Diana Pozun (see contact information below).

Purpose of the Meeting—To discuss matters of Board business, including discussion of the following: (a) Proposed projects for SAB action in FY2003; (b) Executive Committee Structure; and (c) a briefing on a proposed consultation on data reproducibility as a feature of information disseminated by the Agency.

FOR FURTHER INFORMATION: The agenda for the meeting will be posted on the SAB Website (*http://www.epa.gov/sab*) no later than one week prior to the meeting. Members of the public wishing a written agenda or roster of the EC may obtain these from the SAB website, or from Ms. Diana Pozun, Program Specialist, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4533; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov.* Any member of the public wishing further information concerning this meeting must contact Mr. Robert Flaak, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4546; FAX (202) 501–0323; or via e-mail at *flaak.robert@epa.gov.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2001 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 28, 2002.

Vanessa T. Vu,

Director, EPA Science Advisory Board.

[FR Doc. 02–17236 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0120; FRL–7185–2]

Pesticide Product; 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 ID number OPP–2002–0120, must be received on or before August 9, 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 ID number OPP–2002–0120 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740 and e-mail address: giles-parker.cynthia@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/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0120. 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 ID number OPP–2002–0120 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), OPP, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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 ID number OPP–2002–0120. 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 listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the 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 provision 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*: 264–AOG. *Applicant*: Aventis CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709 *Product name*: Fenamidone Technical. *Active ingredient*: Fenamidone (5*S*)-3,5-dihydro-5-methyl-2-(methylthio)-5-phenyl 3-phenylamino)-4*H*-imidazol-4-one at 98.5%. *Proposed classification/Use*: None. A foliar fungicide to control activity on late blight (*phytophotora infestans*), early blight (*Alternaria solani*) and downy mildew diseases of potato, tomato, onion, and other vegetable crops.

2. *File Symbol*: 264–AOL. *Applicant*: Aventis CropScience. *Product name*: Reason 500 SC Fungicide.*Active ingredient*: Fenamidone (5*S*)-3,5-dihydro-5-methyl-2-methyl-2-(methylthio)-5-phenyl-3-(phenylamino)-4*H*-imidazol-4-one at 44.4%. *Proposed classification/Use*: None. A foliar fungicide to control activity on late blight (*phytophotora infestans*), early blight (*Alternaria solani*) and downy mildew diseases of potato, tomato, onion, and other vegetable crops.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: June 27, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–17189 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0137; FRL–7186–3]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing a new active ingredient 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 ID number OPP–2002–0137, must be received on or before August 9, 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 ID number OPP–2002–0137 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Adam Heyward, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6422 and e-mail address: heyward.adam@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/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0137. 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 ID number OPP–2002–0137 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 ID number OPP–2002–0137. 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 an active ingredient not included in any previously registered products pursuant to the provision 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 an Active Ingredient not Included in any Previously Registered Products

1.*File Symbol*: 241–UEN. *Applicant*: BASF Corporation, 26 Davis Drive, PO Box 13528, Research Triangle Park, NC 27709–3528. *Product name*: Cu-HDO - Bis (*N*- Cyclohexyldiazeniumdioxy)-Copper. *Active ingredient*: Bis (*N*-cyclohexyldiazeniumdioxy)-copper (Cu-HDO) at 97%. *Proposed classification/Use*: None. Manufacturing use product for use in the formulation of wood protection end-use products.

2. *File Symbol*: 71406–E. *Applicant*: BASF Corporation. *Product name*: Wolmanit CX - 10. *Active ingredient*: Bis (*N*-cyclohexyldiazeniumdioxy)-copper(Cu-HDO) at 3.5%. *Proposed classification/Use*: None. End use product for use as a wood preservative against wood destroying fungi and insects.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: June 26, 2002.

Jack E. Housenger,

Acting Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 02–17188 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0119; FRL–7184–5]

Pesticide Product; 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 ID number OPP–2002–0119, must be received on or before August 9, 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 ID number OPP–2002–0119 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6502 and e-mail address: sibold.ann@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/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0119. 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 ID number OPP–2002–0119 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), OPP, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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 ID number OPP–2002–0119. 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 listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the 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 provision 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*: 279–GEAU. *Applicant*: FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA 19103. *Product name*: F1785 GH 50 WG Insecticide. Insecticide. *Active ingredient*: Flonicamid at 50%. *Proposed classification/Use*: None. For greenhouse use.

2. *File Symbol*: 71512–T. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Product name*: Technical Flonicamid Insecticide. Insecticide. *Active ingredient*: Flonicamid at 98.4%. *Proposed classification/Use*: None. For manufacturing use only.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: June 25, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–17190 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7244–4]

Northside Drive Superfund Site/ Atlanta, GA; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Atlantic Steel and NL Industries, Inc. (Respondents) entered into an Administrative Order on Consent (AOC) with the Environmental Protection Agency (EPA), whereby the Respondents agreed to perform response activities at the Northside Drive Superfund Site (Site) located in Atlanta, Georgia. Section VII of the AOC provides for the reimbursement of EPA's past and future response costs by the Respondents. Under the terms of the AOC, section VII is subject to section 122(i) of CERCLA, which requires EPA

to publish notice of the proposed settlement in the **Federal Register** for a thirty (30) day public comment period. EPA will consider public comments on section VII of the AOC for thirty days. EPA may withhold consent to all or part of section VII of the AOC if comments received disclose facts or considerations which indicate that section VII of the AOC is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: June 13, 2002.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–17315 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7244–3]

Zellwood Groundwater Superfund Site/ Zellwood, FL; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Industrial Container Services, LLC and Industrial Container Services—FL, LLC (Settling Respondent) entered into a Prospective Purchaser Agreement (PPA) with the Environmental Protection Agency (EPA), whereby the Respondent, in exchange for the United States' covenant not to sue, agrees to pay EPA the fair market value of the property that is the subject of the PPA and further agrees to establish and maintain financial security in order to guarantee performance of the work set forth in the September 17, 2001 remedial design/ remedial action (RD/RA) consent decree for the Zellwood Groundwater Superfund Site (Site) located in Zellwood, Orange County, Florida. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Ray Strickland at the above address within 30 days of the date of publication.

Dated: June 26, 2002.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–17316 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7244–2; CWA–HQ–2002–6002; EPCRA–HQ–2002–6002; RCRA–HQ–2002–6002; CAA–HQ–2002–6002]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Dobson Cellular Systems, Inc. and American Cellular Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with Dobson Cellular Systems, Inc. and American Cellular Corporation (''Respondents'') to resolve violations of the Clean Water Act (''CWA''), Emergency Planning and Community Right-to-Know Act (''EPCRA''), Resource Conservation and Recovery Act (''RCRA''), and Clean Air Act (''CAA'') and their implementing regulations.

The Administrator is hereby providing public notice of this consent agreement and proposed final order, and providing an opportunity for interested persons to comment on the CWA portions of this consent agreement, in accordance with CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C).

Respondents failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for four 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.

Respondents 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'') for eleven facilities. Respondents 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 twenty-three facilities in violation of EPCRA section 311, 42 U.S.C. 11021. For twenty-three facilities, Respondents 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.

Respondents failed to notify the implementing agency of the existence of an Underground Storage Tank (''UST'') at four facilities in violation of RCRA section 9002(a)(1), 42 U.S.C. 6991a(a)(1). At four facilities, Respondents failed to comply with UST system upgrade requirements in violation of RCRA section 9003, 42 U.S.C. 6991b. Respondents failed to notify the implementing agency of closure at one facility in violation of RCRA section 9003, 42 U.S.C. 6991b. EPA, as authorized by RCRA section 9006, 42 U.S.C. 6991e, has assessed a civil penalty for these violations.

Respondents failed to obtain the appropriate operating permits or exemptions at three 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.

DATES: Comments are due on or before August 9, 2002.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2002–019, 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 9.0 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 202–564–2444. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–5029; fax: (202) 564–0010; e-mail: *milton.philip@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

Dobson Cellular Systems, Inc., a telecommunications company incorporated in the State of Oklahoma and American Cellular Corporation, a telecommunications company incorporated in the State of Delaware, 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 four 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. Respondents disclosed that for eleven 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. 11002–11003. Respondents further disclosed that for twenty-three facilities they had failed to submit MSDSs 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 for twenty-three facilities had failed to submit an Emergency and Hazardous Chemical Inventory to the LEPC, SERC, and fire departments with jurisdiction over the facilities, in violation of EPCRA section 312, 42 U.S.C. 11022. Respondents disclosed that for four facilities they had failed to notify the implementing agency of the existence of UST systems, in violations of RCRA section 9002, 42 U.S.C. 6991a Respondents disclosed that for four facilities they had failed to notify the implementing agency of the existence of an UST in violation of RCRA section 9002(a)(1), 42 U.S.C. 6991a(a)(1). Respondents disclosed that at four facilities they had failed to comply with UST system upgrade requirements in violation of RCRA section 9003, 42 U.S.C. 6991b. Respondents disclosed that for one facility they had failed to notify the implementing agency of closure in violation of RCRA section 9003, 42 U.S.C. 6991b. Respondents disclosed that for three 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.

EPA determined that Respondents 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 ($677,735) and proposed a settlement penalty amount of nine thousand, eight hundred and forty-three dollars ($9,843). Of this amount, $7,319 is attributable to the EPCRA violations; $1,309 is attributable to the RCRA violations; $1,062 is attributable to the CWA violations; and $153 is attributable to CAA violations. This is the amount of the economic benefit gained by Respondents, attributable to their delayed compliance with the CWA, EPCRA, RCRA, and CAA regulations. Respondents have agreed to pay this amount. EPA and Respondents negotiated and reached an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on July 2, 2002 (*In Re: Dobson Cellular Systems, Inc. and American Cellular Corporation* Docket Nos. CWA—HQ–2002–6002, EPCRA–HQ–2002–6002, RCRA–HQ–2002–6002, CAA–HQ–2002–6002). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

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 a Class II 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.

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 August 9, 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.

Dated: July 3, 2002.

Rosemarie A. Kelley,

Acting Director, Multimedia Enforcement Division, , Office of Enforcement and Compliance Assurance.

[FR Doc. 02–17310 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7243–3]

Water Quality Trading Policy; Proposed Policy; Re-Opening Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for comment; re-opening of comment period.

SUMMARY: On May 15, 2002, the U.S. Environmental Protection Agency's (EPA's) invited public comment on its proposed Policy on Water Quality Trading (''proposed policy''). Today's action extends the due date for comments to July 15, 2002. The purpose of the proposed policy is to signal EPA support for soundly designed water quality trading programs developed by States and Tribes. Another purpose is to propose program components that EPA believes are appropriate for trading programs to be soundly designed and to operate successfully. In addition, the proposed policy is intended to address issues left open and limitations encountered implementing projects under EPA's January 1996 Effluent Trading Policy and May 1996 draft Framework for Watershed-Based Trading (EPA 800–R–96–001).

Water quality trading is a voluntary incentive-based approach to more efficiently protect and restore the nation's waters. The proposed policy addresses trading to maintain water quality in unimpaired waters, trading in

impaired waters before development of a Total Maximum Daily Load (TMDL) and trading to meet TMDLs. While the focus is on nutrients and sediment, the policy also discusses the potential for trading other pollutants under certain circumstances.

The proposed policy is available for review at *http://www.epa.gov/owow/watershed/trading.htm*

DATES: The Agency requests comments on the proposed policy posted at *http://www.epa.gov.owow/watershed/trading.htm.* Comments must be received or post-marked by midnight on Monday, July 15, 2002.

ADDRESSES: The proposed policy is available for review at *http://www.epa.gov/owow/watershed/trading.htm.* Please send an original and three copies of your written comments and enclosures to W–02–07 Comment Clerk, Water Docket (MC4101), EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically to *ow-docket@epamail.epa.gov.* Electronic comments must be submitted as an ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and form of encryption. Electronic comments must be identified by the docket number W–02–07. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Hand deliveries should be delivered to: EPA's Water Docket at 401 M Street, SW., Room EB57, Washington, DC 20460.

The record for this proposed policy has been established under docket number W–02–07, and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M St SW., Washington, DC 20460. For access to docket materials, please call 202/260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: David Batchelor, EPA, Office of Water, (202) 564–5764, *batchelor.david@epa.gov.* or Lynda Hall Wynn, EPA, Office of Water, (202) 564–0472, *wynn.lynda@epa.gov.*

Dated: July 2, 2002.

Elisabeth LaRoe,

Director, Water Policy Staff, Office of Water.

[FR Doc. 02–17238 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 11, 2002, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- June 6, 2002 (Open and Closed).

B. Reports

- FCS Building Association's Quarterly Report.
- Corporate Approvals.
- Farm Credit Financial Partners, Inc.
- Farm Credit System 2001 Results for Young, Beginning and Small Farmer Lending Program.
- Conditions and Trends in the Sacramento Field Office Portfolio.
- The Canadian Financial System.
- Farm Credit Canada.

Dated: July 5, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–17341 Filed 7–5–02; 4:23 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 2, 2002.

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 September 9, 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 Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *jboley@fcc.gov* or *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Wireless Customer Service Evaluation.

Form No.: N/A.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit,

not-for-profit institutions and state, local or tribal government.

Number of Respondents: 582.

Estimated Time Per Response: .25 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 146 hours.

Total Annual Cost: N/A.

Needs and Uses: The Wireless Telecommunications Bureau need the information gathered by these evaluations to determine whether its website delivers a clear and consistent user interface that provides straightforward, timely access to FCC information. The information will be used to assess whether we are meeting the customer's needs and our goals for providing superior service to the public.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–17263 Filed 7–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 02–1258]

Auction of Multichannel Video Distribution and Data Service Licenses Notice of Auction Scheduled for February 12, 2003

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces an auction of Multichannel Video Distribution and Data Service (''MVDDS'') licenses, which is scheduled to begin on February 12, 2003.

DATES: The auction of MVDDS licenses is scheduled to begin on February 12, 2003. The auction seminar is scheduled for December 11, 2002. The short-form application deadline is December 20, 2002. The upfront payment deadline is January 17, 2003. The mock auction is scheduled for February 7, 2003.

FOR FURTHER INFORMATION CONTACT: Auction questions: Brian Carter, (202) 418–0660 or e-mail *bcarter@fcc.gov.* Service rules questions: Jennifer Burton, (202) 418–0680 or e-mail *jburton@fcc.gov.* Media may contact Meribeth McCarrick at (202) 418–0654 for questions.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction of Multichannel Video Distribution and Data Service Licenses Public Notice* released May 24, 2002. The complete text of this document, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. In addition, the complete text, including attachments, may be retrieved from the FCC's website at www.fcc.gov. The *Auction of Multichannel Video Distribution and Data Service Licenses Public Notice* 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.*

By this Public Notice, the Wireless Telecommunications Bureau announces an auction of MVDDS licenses to begin on February 12, 2003. This auction will include 354 Component Economic Area licenses for operation on frequencies 12.2–12.7 GHz. A preliminary list of licenses available for auction is included as Attachment A, of the *Auction of Multichannel Video Distribution and Data Service Licenses Public Notice.* Future public notices will seek comment on specific terms and conditions for this auction. The key dates are as follows:

Auction Seminar: December 11, 2002.
Short Form Deadline: December 20, 2002.
(FCC 175 Application).
Upfront Payment Deadline: January 17, 2003.
Mock Auction: February 7, 2003.
Auction Begins: February 12, 2003.

For further clarification, please refer to Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2–12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2–12.7 GHz Band, *Memorandum Opinion and Order and Second Report and Order,* FCC 02–116, ET Docket No. 98–206 (rel. May 23, 2002). *See also* Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97–82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making,* 62 FR 13570 (March 21, 1997); Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, *Third Report and Order and Second Further Notice of Proposed Rule Making,* (modified by Erratum, DA 98–419 (rel. Mar. 2, 1998), 63 FR 770 (January 7, 1998); Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making,* 65 FR 5447 (October 29, 2001); Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Seventh Report and Order,* 66 FR 5447 (October 29, 2001); Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Eighth Report and Order,* 67 FR 16647 (April 8, 2002).

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 02–17175 Filed 7–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the following information collection systems described below.

1. *Type of Review:* Renewal of a currently approved collection.

Title: Uniform Application/Uniform Termination for Municipal Securities Principal or Representative.

OMB Number: 3064–0022.

Form Number: MSD–4; MSD–5.

Annual Burden:

Estimated annual number of respondents: 75.

Estimated time per response: 1 hour.

Total annual burden hours: 75 hours.

Expiration Date of OMB Clearance: August 31, 2002.

SUPPLEMENTARY INFORMATION: An insured state nonmember bank which

serves as a municipal securities dealer must file Form MDS–4 or MSD–5, as applicable, to permit an employee to become associated or to terminate the association with the municipal securities dealer. FDIC uses the form to ensure compliance with the professional requirements for municipal securities dealers in accordance with the rules of the Municipal Securities Rulemaking Board.

2. *Type of Review:* Renewal of a currently approved collection.

Title: Request for Deregistration for Registered Transfer Agents.

OMB Number: 3064–0027.

Annual Burden:

Estimated annual number of respondents: 18.

Estimated time per response: .42 hours.

Total annual burden hours: 7.56 hours.

Expiration Date of OMB Clearance: August 31, 2002.

SUPPLEMENTARY INFORMATION: An insured nonmember bank or a subsidiary of such a bank that functions as a transfer agent may withdraw from registration as a transfer agent by filing a written notice of withdrawal with the FDIC as provided by 12 CFR 341.5.

3. *Type of Review:* Renewal of a currently approved collection.

Title: Summary of Deposits.

OMB Number: 3064–0061.

Annual Burden:

Estimated annual number of respondents: 6,000.

Estimated time per response: 3 hours.

Total annual burden hours: 18,000 hours.

Expiration Date of OMB Clearance: August 31, 2002.

SUPPLEMENTARY INFORMATION: The Summary of Deposits annual survey obtains data about the amount of deposits held at each office of all banks with branches in the United States. The survey data provides a basis for measuring the competitive impact of bank mergers and has additional use in banking research.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Legal Division, Room MB–3109, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on these collections of information are welcome and should be submitted on or before August 9, 2002 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collections of information, may be obtained by calling or writing the FDIC contact listed above.

Dated: July 3, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–17268 Filed 7–9–02; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Friday, July 12, 2002, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Rule to Create 12 CFR part 313—Procedures for the Collection of Corporate Debt.

Memorandum and resolution re: Final Statement of Policy on Bank Merger Transactions.

Discussion Agenda:

Memorandum and resolution re: Notice of Proposed Rulemaking to Amend Part 303—Insurance of State Banks Chartered as Limited Liability Companies.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–3742.

Dated: July 5, 2002.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 02–17359 Filed 7–8–02; 10:37 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1420–DR]

Iowa; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa, (FEMA–1420–DR), dated June 19, 2002, and related determinations.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Rich Robuck, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 19, 2002:

Des Moines, Henry, Lee, and Louisa Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–17281 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1419–DR]

Minnesota; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota, (FEMA–1419–DR), dated June 14, 2002, and related determinations.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Rich Robuck, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 14, 2002:

Clearwater County for Individual and Public Assistance.

Kittson County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–17279 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1419–DR]

Minnesota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota, (FEMA–1419–DR), dated June 14, 2002, and related determinations.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Rich Robuck, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 14, 2002:

Becker County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–17280 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1419–DR]

Minnesota; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA–1419–DR), dated June 14, 2002, and related determinations.

EFFECTIVE DATE: June 28, 2002.

FOR FURTHER INFORMATION CONTACT: Rich Robuck, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 28, 2002.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–17282 Filed 7–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC, offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201137.

Title: Port Manatee Cargo Inducement Agreement.

Parties: Manatee County Port Authority, The Seatrade Group.

Synopsis: The agreement establishes special wharfage rates for fruits and vegetables unloaded by the Seatrade Group at the port authority's facilities.

Dated: July 5, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–17313 Filed 7–9–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 02–09; FMC Agreement No. 011807]

Ocean Common Carrier Status of Shanghai Hai Hua Shipping Co., LTD. (HASCO) and SNL/HASCO Cross Space Charter and Sailing Agreement; Notice of Investigation and Hearing, Request for Additional Information and Order To Show Cause

Notice is given that, on June 27, 2002, the Federal Maritime Commission (''Commission'') served an Order of Investigation and Hearing, Request for Additional Information and Order to Show Cause on Shanghai Hai Hua Shipping Co. Ltd. dba HASCO (''HASCO'') and Sinotrans Container Lines Co. Ltd. dba Sinolines (''Sinolines'').

On May 29, 2002, counsel filed a Cross Space Charter and Sailing Agreement between HASCO and

Sinolines, FMC Agreement No. 011807 (the ''SNL/HASCO Agreement''). Under that agreement, the parties propose to share space on five vessels in a weekly service between U.S. Pacific ports and ports in Asia. It has been represented by filing counsel that Sinolines also proposes to time charter to HASCO one vessel to be deployed under the agreement. This latter aspect of the parties' cooperative working arrangement, *i.e.,* the authorities and conditions under which Sinolines will sub-charter one vessel to HASCO, is not defined in the filed agreement.

Under Section 4 of the Shipping Act of 1984 (''Shipping Act''), only agreements which are between or among ocean common carriers may be filed with the Commission pursuant to section 5 of the Shipping Act. Section 6(b) of the Shipping Act provides that the Commission shall reject any filed agreement that, after preliminary review, it finds does not meet the requirements of section 5 of the Shipping Act. See also, 46 CFR 535.401(c) and 535.601.

It appears that HASCO may not be operating any vessels in the trades for which it has published a tariff, and that HASCO will not have commenced operating any vessel(s) prior to the effective date of the SNL/HASCO Cross Space Charter and Sailing Agreement. It also appears that HASCO does not anticipate operating any vessel or vessels in the U.S. trades independent of those operations to be furnished in conjunction with its agreement partner pursuant to the SNL/HASCO Agreement.

HASCO's status as an ocean common carrier potentially has significant regulatory implications for the parties to the SNL/HASCO Agreement. In addition to providing HASCO with status as a VOCC for purposes of entering into agreements and service contracts, this arrangement may enable HASCO to avoid other regulatory requirements including those applicable generally to non-vessel-operating common carriers (''NVOCCs'').

Under sections 4, 5 and 6 of the Shipping Act, the Commission has a duty to carefully examine not only the substantive lawfulness of the SNL/HASCO Agreement but also HASCO's eligibility as an ocean common carrier, as defined in section 3(16) of the Shipping Act, to enter into such an agreement. Under section 6(d) of the Shipping Act, the Commission may request additional information from the parties to an agreement in order to determine whether the agreement meets the requirements of sections 5 and 6 of the Shipping Act. The Commission has requested additional information from HASCO and Sinolines in response to questions transmitted to filing counsel pursuant to the Commission's rules at 46 CFR 535.606(e), so as to elicit evidence sufficient to determine whether HASCO qualifies as an ocean common carrier and hence, whether the proposed agreement may become effective under section 4 of the Shipping Act as an agreement ''by or among'' two ocean common carriers. By this action pursuant to section 6(c)(2) of the Shipping Act, 46 U.S.C. app. 1705, and 46 CFR 535.606(b), the effective date of the subject agreement modification may be delayed until 45 days after the Commission has received the parties' responses.

The Commission therefore has instituted this investigation to determine whether HASCO is an ocean common carrier; whether the SNL/HASCO Agreement should be disapproved if it is found that HASCO is not an ocean common carrier; whether the SNL/HASCO Agreement should be disapproved if it is found that the agreement, as filed, does not meet the requirements of 46 CFR 535.103(g); to show cause why HASCO's tariff No. 017636–001 should not be cancelled; and to show cause why HASCO should not be ordered to cease and desist doing business as a common carrier until such time as it provides proof to the Commission that it publishes and maintains a valid tariff as an non-vessel-operating common carrier and maintains a bond and resident agent as required by section 19 of the Shipping Act and Commission regulations.

The full text of the Commission's Order is available on its website at *http://www.fmc.gov.* Any person having an interest in participating in this proceeding may a file petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–17330 Filed 7–9–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 2328NF.

Name: Ross Freight Company, Inc.

Address: 732 West 9th Street, Suite 206, San Pedro, CA 90731.

Date Revoked: June 6, 2002.

Reason: Failed to maintain valid bonds.

License Number: 3555N.

Name: Thomas Griffin International, Inc.

Address: 1411 N. Westshore Blvd., Suite 315, Tampa, FL 33607.

Date Revoked: May 2, 2002.

Reason: Failed to maintain a valid bond.

Ronald D. Murphy,

Deputy Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–17314 Filed 7–9–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at 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 August 5, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Swann BancShares, Inc., Wedowee, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Wedowee, Wedowee, Alabama.

B. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Marquette Financial Companies, Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of CBA Bancshares, Inc., Minneapolis, Minnesota, and thereby indirectly acquire Community Bank of Arizona, N.A., Wickenburg, Arizona.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First York Ban Corp., York, Nebraska; to acquire and additional 0.4 percent, for a total of 22.28 percent, of the voting shares of NebraskaLand Financial Services, Inc., York, Nebraska; and thereby indirectly acquire additional voting shares of NebraskaLand National Bank, North Platte, Nebraska.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. UCBH Holdings, Inc., San Francisco, California; to acquire 25 percent of the voting shares of Bank of Canton of California, San Francisco, California.

Board of Governors of the Federal Reserve System, July 5, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–17355 Filed 7–9–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Government in the Sunshine; Meeting Notice

AGENCY: Board of Governors of the Federal Reserve System.

TIME AND DATE: 9 a.m., Friday, July 12, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551

Status: Closed.

Matters to be Considered:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated; July 5, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–17354 Filed 7–5–02; 4:34 pm]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in four Commission rules and one category of administrative activities. The FTC is seeking public comments on its proposal to extend through August 31, 2005 the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in these information collection items.

DATES: Comments must be filed by August 9, 2002.

ADDRESSES: Send written comments to the Office of information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN: Desk Officer for the Federal Trade Commission (comments in electronic form should be sent to *oira__docket@omb.eop.gov),* and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580 (comments in electronic form should be sent to *pra@ftc.gov*). All comments should be identified as responding to this notice, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the proposed information requirements should be sent to Gary Greenfield, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Ave., NW., H–576, Washington, DC 20580, (202) 326–2753.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On April 30, 2002, the FTC sought comment of the information collection requirements associated with the instant information collection terms. See 67 21243. No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for these items.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCHII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *pra@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

The relevant information collection requirements are as follows:

1. The Negative Option Rule, 16 CFR Part 425 (Control Number: 3084–0104)

The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise such as books, compact discs or tapes automatically to the subscribers, and bill them for the merchandise if consumers do not expressly reject the merchandise within a prescribed time. The Rule protects consumers by: (a) requiring that promotional materials disclose the terms of membership clearly and conspicuously; and (b) establishing procedures for the administration of such ''negative option'' plans.

Estimated annual hours burden: 14,000 total burden hours, rounded to the nearest thousand (all disclosure-related).

Staff estimates that approximately 179 existing clubs require annually about 75 hours each to comply with the Rule's

disclosure requirements, for a total of 13,425 hours (179 clubs × 75 hours). These clubs should be familiar with the Rule, which has been in effect since 1974. Thus the ''burden '' of compliance has declined over time. Moreover, comments provided to the FTC indicate that a substantial portion of the existing clubs likely would make these disclosures absent the Rule because they have helped foster long-term relationships with consumers.

Approximately 5 new clubs come into being each year. These clubs require approximately 120 hours to comply with the Rule, including start up-time. Thus, cumulative PRA burden for new clubs is about 600 hours. Combined with the estimated burden for established clubs, total burden is 14,025 hours or 14,000, rounded to the nearest thousand.

Estimated annual cost burden: $385,000, rounded to the nearest thousand (solely related to labor costs).

Based on recent Bureau of Labor Statistics, the average compensation for advertising managers is approximately $30 per hour. Compensation for clerical personnel is approximately $10 per hour. Assuming that managers perform the bulk of the work, while clerical personnel perform associated tasks (e.g., placing advertisements and responding to inquires about offerings or prices), the total cost to the industry for the Rule's paperwork requirements would be approximately $384,700. [(65 hours managerial time × 179 existing negative option plans × $30 per hour) + (10 hours clerical time × 179 existing negative option plus × $10 per hour) + (115 hours managerial time × 5 new negative option plans × $30 per hour) + (10 hours clerical time × 5 new negative option plans × $10).]

Because the Rule has been in effect since 1974, the vast majority of the negative option clubs have no current start-up costs. For the few clubs that enter the market each year, the costs associated with the Rule's disclosure requirements, beyond the additional labor costs discussed above, are de minimis. Negative option clubs already have access to the ordinary office equipment necessary to achieve compliance with the Rule. Similarly, the Rule imposed few, if any, printing and distribution costs. The required disclosures generally constitute only a small addition to the materials that a prospective subscriber sends to the seller to solicit enrollment in a negative option plan. Because printing and distribution expenditures are incurred regardless of the Rule to market the product, adding the required disclosures to them would result in marginal incremental expense.

2. The Amplifier Rule, 16 CFR Part 432 (Control Number: 3084–0105)

The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

Estimated annual hours burden: 600 hours (300 disclosure-related hours; 300 testing-related hours).

The Rule's provisions require affected entities to test the power output of amplifiers in accordance with specified FTC protocol. Approximately 300 new amplifiers and receivers come on the market each year. Since high fidelity manufacturers routinely conduct performance tests as part of any new product development, the Rule imposes incremental costs only to the extent that the FTC protocol is more time-consuming than alternative testing procedures. Specifically, a warm up (''precondition'') period that the Rule requires before measurements are taken may add approximately one hour to the time testing entails. Thus, staff estimates that the Rule imposes approximately 300 hours (1 hour × 300 new products) of added testing burden annually.

The Rule requires disclosures if an advertisement makes a power output claim. Assuming that ten advertisements per magazine are placed each month in ten existing magazines featuring audio equipment advertisements, staff estimates that approximately 1,200 magazines advertisements annually would be required to carry the FTC disclosures. The cost of these disclosures is limited to the time needed to draft and review the language pertaining to power output specifications. Because this Rule became effective in 1974, and because members of the industry are familiar with its requirements, compliance is less burdensome today. Accordingly, staff estimates the time involved for this task to be a maximum of ¼ hour per advertisement, for a total burden of 300 hours.[1] The total annual burden impose by the Rule is therefore approximately 600 burden hours for disclosures and testing.

Estimated annual cost burden: $19,000, rounded to the nearest thousand (solely relating to labor costs).

Based on recent Bureau of Labor Statistics, the average hourly compensation for electronics engineers is about $32, and the average hourly compensation for marketing, advertising and public relations managers is about $30. Generally, electronics engineers perform the testing of amplifiers and receivers (300 hours × $32 = $9,600), and marketing, advertising or public relations managers prepare advertisements (including required disclosures) (300 hours × $30 = $9,000). Based on this information, staff estimates industry labor costs associated with the Rule of approximate $19,000 per year, rounded to the nearest thousand.

The Rule imposes no capital or other non labor costs because its requirements are incidental to testing and advertising done in the ordinary course of business.

3. The Franchise Rule, 16 CFR Part 436 (Control Number: 3084–0107)

The Franchise Rule requires franchisors and franchise brokers to furnish to prospective investors a disclosure document that provides information relating to the franchisor, the franchisor's business, and the nature of the proposed franchise relationship, as well as additional information about any claims concerning actual or potential sales, income, or profits for a prospective franchisee (''earnings claims''). Franchisors must also preserve the information that forms a reasonable basis for such claims. The Rule is designed to help protect potential investors from fraudulent claims.

The Rule's required disclosure document provides franchisees with information on twenty broad-ranging subjects that affect franchisors and the nature of the proposed franchise relationship. This includes not only generally available information, such as the official name and address and principal place of business of the franchisor, but also less commonly available information such as, among other things, the previous 5 years business experience of each of a franchisor's current directors and executive officers and whether any of these individuals has been convicted of a felony or embezzlement, or has filed in bankruptcy or been adjudged bankrupt during the previous 7 years. All information in the disclosure statement must be updated and revised according to the express time requirements set forth in the Rule.

[1] Staff has reduced this amount from prior PRA estimates to reflect recent amendments to the Rule. 65 FR 81232 (Dec. 22, 2000). The amendments eliminated 3 of 4 disclosures that were required in media advertising (eliminated were disclosures of total rated harmonic distortion and the associated power bandwidth and impedance ratings).

Based on a review of trade publications and information from state regulatory authorities, staff believes that, on average, from year to year, there are approximately 5,000 American franchise systems, consisting of 2,500 business format franchises and 2,500 business opportunity sellers, with perhaps about 10% of that total reflecting an equal amount of new and departing business entrants.

Staff has calculated burden based on the above estimates. Some franchisors, however, for various reasons, are not covered by the Rule in certain situations (e.g., when a franchisee buys bona fide inventory but pays no franchisor fees). Moreover, fifteen states have franchise disclosure laws similar to the Rule. These states use a disclosure document format known as the Uniform Franchise Offering Circular (''UFOC''). In order to ease compliance burdens on the franchisor, the Commission has authorized use of the UFOC in lieu of its own disclosure format to satisfy the Rule's disclosure requirements. Staff estimates that about 95 percent of all franchisors use the UFOC format. When that format is used, the franchisor is not required to prepare an additional federal disclosure document. The burden hours stated below reflects staff's estimate of the incremental burden that the Franchise Rule may impose beyond information requirements imposed by states and/or followed by franchisors who use the UFOC.

Estimated annual hours burden: 34,000 hours, rounded up to the next thousand (28,500 disclosure hours + 5,000 recordkeeping hours).

Staff estimates that the 500 or so new franchisors require approximately 30 hours each to develop a Rule-complaint disclosure document. Staff additionally estimates that the remaining 4,500 established franchisors require no more than approximately 3 hours each to update the disclosure document. The combined cumulative burden is 28,500 hours.

The franchisor may require additional recordkeeping of information pertaining to the sale of franchises in non-registration states. At most, franchisors would require an additional hour of recordkeeping per year. This yields a cumulative total of 5,000 hours per year for affected entities.

Estimated annual cost burden: $19,952,000 ($7,175,000 in labor costs; $12,777,000 in capital or other non-labor costs).

Labor costs are determined by applying applicable wage rates to associated burden hours. Staff assumes that an attorney likely would prepare or update the disclosure document. Accordingly, staff's estimate of the labor costs attributed to those tasks are as follows: (500 new franchisors × $250 per hour × 30 hours per franchisor) + (4,500 established franchisors × $250 per hour × 3 hours per franchisor) = $7,125,000.

Staff anticipates that recordkeeping would be performed by clerical staff at approximately $10 per hour. At 5,000 hours per year for all affected entities, this would amount to a total cost of $50,000. Thus, combined labor costs for recordkeeping and disclosure is approximately $7,175,000.

Franchisors must also incur costs to print and distribute the disclosure document. These costs vary based upon the length of the disclosures and the number of copies produced to meet the expected demand. Staff estimates that 2,500 business format and product franchisors print and mail 100 disclosure documents per year at a cost of $35 per document. Staff further estimates that another 2,500 business opportunity sellers print and mail 100 documents per year at a cost of $15 per document, for a total cost of $12,500,000.

The franchisor also must provide and disseminate an FTC cover sheet that identifies the franchisor, the date the document is issued, a table of contents, and a notice that tracks the language specifically provided in the Rule. Although some of the language in the cover sheet is supplied by the government for the purpose of disclosure to the public, and is thus excluded from the definition of ''collection of information'' under the PRA, *see* 5 CFR 1320.3(c)(2), there are residual costs to print and mail these cover sheets, including within them the presentation of related information beyond the supplied text. Staff estimates that 5,000 franchisors complete and disseminate 100 cover sheets per year at a cost of approximately $.55 per cover sheet, or a total cost of approximately $277,000.

4. R-value Rule, 16 CFR Part 460 (Control Number: 3084–0109).

The R-value Rule establishes uniform standards for the substantiation and disclosure of accurate, material product information about the thermal performance characteristics of home insulation products. The R-value of an insulation signifies the insulation's degree of resistance to the flow of heat. This information tells consumers how well a product is likely to perform as an insulator and allows consumers to determine whether the cost of the insulation is justified.

Estimated annual hours burden: 366,000 hours, rounded to the nearest thousand (366,095 disclosure hours and 305 hours for testing and recordkeeping).

The Rule's requirements include product testing, recordkeeping, and third-party disclosures on labels, fact sheets, advertisements, and other promotion materials. Based on information provided by members of the insulation industry, staff estimates that the Rule affects: (1) 150 insulation manufacturers and their testing laboratories; (2) 1,500 installers who sell home insulation; (3) 130,000 new home builders/sellers of site-built homes and approximately 7,000 dealers who sell manufactured housing; and (4) 25,000 retail sellers who sell home insulation for installation by consumers.

Under the Rule's testing requirements, manufacturers must test each insulation product for its R-value. The test takes approximately 2 hours. Approximately 15 of the 150 insulation manufacturers in existence introduce one new product each year. The total annual testing burden is therefore approximately 30 hours (15 manufacturers × 2 hours per test).

Staff further estimates that most manufacturers require an average of approximately 20 hours per year with regard to third-party disclosure requirements in advertising and other promotional materials. Only the five or six largest manufacturers require additional time, approximately 80 hours each. Thus, the annual third-party disclosure burden for manufacturers is approximately 3,360 hours [(144 manufacturers × 20 hours) + (6 manufacturers × 80 hours).]

While the Rule imposes recordkeeping requirements, most manufacturers and their testing laboratories keep their testing-related records in the ordinary course of business. Staff estimates that no more than one additional hour per year per manufacturer is necessary to comply with this requirements, for an annual recordkeeping burden of approximately 150 hours (150 manufacturers × 1 hour).

Installers are required to show the manufacturers' insulation fact sheet to retail consumers before purchase. They must also disclose information in contracts or receipts concerning the R-value and the amount of insulation to install. Staff estimates that two minutes per sales transaction is sufficient to comply with these requirements. Approximately 835,000 retrofit insulations are installed by approximately 1,500 installers per year and, thus, the related annual burden total is approximately 27,833 hours (835,000 sales transactions × 2 minutes). Staff anticipates that one hour per year

per installer is sufficient to cover required disclosures in advertisements and other promotional materials, Thus, the burden for this requirement is approximately 1,500 hours per year (1,500 installers × 1 hour). In addition, installers must keep records that indicate the substantiation relied upon for savings claims. The additional time to comply with this requirement is minimal—approximately 5 minutes per year per installer—for a total of approximately 125 hours (1,500 installers × 5 minutes).

New home sellers must make contract disclosures concerning the type, thickness, and R-value of the insulation they install in each part of a new home. Staff estimates that no more than one minute per sales transaction is required to comply with this requirement, for a total annual burden of approximately 283,333 hours (1.7 million new home sales × 1 minute). New home sellers who make energy savings claims must also keep records regarding the substantiation relied upon for those claims. Because few new home sellers make these claims, and the ones that do would likely keep these records regardless of the R-value Rule, staff believes that the one minute covering disclosures would also encompass this recordkeeping element.

The Rule requires that the approximately 25,000 retailers who sell home insulation make fact sheets available to consumers before purchase. This can be accomplished by, for example, placing copies in a display rack or keeping copies in a binder on a service desk with an appropriate notice. Replenishing or replacing fact sheets should require no more than approximately one hour per year per retailer, for a total of 25,000 annual hours, industry-wide.

The Rule also requires specific disclosures in advertisements or other promotional materials to ensure that the claims are fair and not deceptive. This burden is very minimal because retailers typically use advertising copy provided by the insulation manufacturer, and even when retailers prepare their own advertising copy, the Rule provides some of the language to be used. Accordingly, approximately one hour per year per retailer should suffice to meet this requirement, for a total annual burden of approximately 25,000 hours.

Retailers who make energy savings claims in advertisements or other promotional materials must keep records that indicate the substantiation they are relying upon. Because few retailers make these types of promotional claims, and because the Rule permits retailers to rely on the insulation manufacturer's substantiation data for any claims that are made, the additional recordkeeping burden is de minimis. The time calculated for disclosures, above, would be more than adequate to cover any burden imposed by this recordkeeping requirement.

To summarize, staff estimates that the Rules imposes a total of 366,331 burden hours, as follows: 150 recordkeeping and 3,390 testing and disclosure hours for manufacturers; 125 recordkeeping and 29,333 disclosure hours for installers; 283,333 disclosure hours for new home sellers; and 50,000 disclosure hours for retailers. Rounded to the nearest thousand, the total burden is 366,000 burden hours.

Estimated annual cost burden: $7,290,030 (solely related to labor costs).

The total annual labor costs for the Rule's information collection requirements is $7,290,030, derived as follows: $600 for testing, based on 30 hours manufacturers (30 hours × $20 per hour skilled technical personnel); $2,750 for complying with the recordkeeping requirements of the Rule, based on 275 hours (275 hours × $10 per hour for clerical personnel); $33,360 for manufacturers' compliance with third-party disclosure requirements, based on 3,360 hours (3,360 hours × $10 per hour for clerical personnel); and $7,253,320 for compliance by installers, new home (362,666 hours × $20 per hour for sales persons).

There are no significant current capital or other non-labor costs associated with this Rule. Because the Rule has been in effect since 1980, members of the industry are familiar with its requirements and already have in place the equipment for conducting tests and storing records. New products are introduced infrequently. Because the required disclosures are placed on packaging or on the product itself, the Rule's additional disclosure requirements do not cause industry members to incur any significant additional non-labor associated costs.

5. FTC Administrative Activities (Control Number: 3084–0047)

This category consists of: (a) applications to the Commission, including applications and notices contained in the Commission's Rules of Practice (primarily Parts I, II, and IV); and (b) the FTC's Consumer Response Center.

Estimated annual hours burden: 78,000 hours, rounded to the nearest thousand.

Most applications to the Commission generally fall within the ''law enforcement exception'' to the PRA,[2] any burden associated with those that do not is de minimis. For example, over the last decade, the Commission has received only one application for an exemption under the Fair Debt Collection Practices Act provisions. Staff has estimated that such a submission can be completed well within 50 hours. Applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission's Rule of Practice) are also infrequent and difficult to quantify. Nonetheless, in order to cover any potential ''collections of information'' for which separate clearance has not been sought, staff is projecting 125 hours as its estimate of the time needed to submit any applicable responses.[3]

The FTC's Bureau of Consumer Protection (''BCP'') uses various telephone complaint hotlines and, alternatively, three different online consumer complaint forms to handle consumer grievances: (1) the general *www.ftc.gov* complaint form (for other than identify theft complaints); (2) the www.consumer.gov ''Know Fraud'' complaint form (essentially another way to access complaint form #1); and (3) the ''Identity Theft On-Line Complaint Form.'' [4] The forms' completion is wholly voluntary. To gauge the effectiveness of the overall program, BCP employs a customer satisfaction survey. Each consumer surveyed is asked several questions chosen from a staff-prepared list. The questions are designed to elicit information from consumers about the overall effectiveness of the call center.

[2] The ''law enforcement'' exception to the PRA excludes most items in this subcategory because they involve collecting information during the conduct of a Federal investigation, civil action, or administrative action directed against a specific party. *See* 44 U.S.C. 3518(c)(1); 5 CFR 1320.4(a)(2).

[3] This includes Commission Rule of Practice 4.11(e), 16 CFR 4.11(e), which establishes procedures for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the agency is not a party. The rule requires that a person who seeks such testimony submit a statement is support of the request. Staff estimates that agency personnel receive roughly 2 such requests per month or 24 per year, and conservatively estimates that it would require up to 2 hours to prepare the statement, for a cumulative total of 24 hours.

[4] The burden calculations for these online options also include related variations, which comprise the same basic ''collection of information'': (1) Spanish language versions also available at *www.ftc.gov,* (2) the *www.econsumer.gov* complaints form, but only with regard to complaints from U.S. or foreign consumers regarding U.S. companies, and (3) the FTC's planned *www.sentinel.mil* link for consumer complaints from U.S. military personnel as part of a joint initiative with the Department of Defense.

Burden estimates for these BCP programs are as follows:

Annual hours burden:

Activity	# Respondents	# Minutes/activity	Total hours
Miscell. and fraud-related consumer complaints (phone)*	325,000	4.5	24,375
Miscell. and fraud-related consumer complaints (online)**	105,000	5.0	8,750
IDT complaints (phone)*	300,000	8	40,000
IDT complaints (online)**	32,000	7.5	4,000
Consumer Satisfaction Questionnaire	9,000	4.0	600
Totals	771,000		77,725

*Number of consumer calls calculated by projecting over the 3-year clearance period sought 5% annual growth and a telephone contractor response rate of 95% (contracted level of service) with regard to consumers who call the toll free lines and opt to talk to a counselor.

**Number of online collections projected from number of consumers who use the FTC's online complaint forms noted in the text above and in footnote 4. These figures also assume 5% annual growth over the 3-year clearance period requested.

Annual cost burden:

The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

William E. Kovacic,

General Counsel.

[FR Doc. 02–17324 Filed 7–9–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Transfer of Delegations of Authority To Disclose Certain Nonpublic Information to Foreign Law Enforcement Agencies and Delegation of Authority To Sign Confidentiality Agreements With Certain Foreign Agencies

AGENCY: Federal Trade Commission.

ACTION: Transfer of delegation of authority and delegation of authority.

SUMMARY: The Commission has delegated authority to share information with certain law enforcement agencies in Canada, Australia and the United Kingdom to the Associate Director for International Consumer Protection. The Commission has also delegated to the Associate Director for International Consumer Protection authority to execute confidentiality agreements with certain foreign agencies, a condition of their being granted access to nonpublic databases. The delegation includes authority previously delegated to the Associate Director for Planning and Information, and all delegations are subject to confidentiality laws and rules.

EFFECTIVE DATE: May 8, 2002.

FOR FURTHER INFORMATION CONTACT: Michael L. Shore, Attorney, International Division of Consumer Protection, 202 326–2708, *mshore@ftc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given, pursuant to Reorganization Plan No. 4 of 1961, 26 FR 6191, that the Commission has transferred from the Associate Director for Planning and Information to the Associate Director for International Consumer Protection its prior delegations of authority to disclose: (1) to Canadian law enforcement agencies, information regarding consumer protection investigations involving Canadian businesses or consumers (65 FR 64950–02 (Oct. 31, 2000)); (2) to the Australian Competition and Consumer Commission, information regarding consumer protection investigations involving Australian businesses or consumers (65 FR 64950–02 (Oct. 31, 2000)); (3) to Australian law enforcement agencies, information contained in the Consumer Sentinel database of consumer complaints and law enforcement information (67 FR 4260–04 (Jan. 29, 2002)); and (4) to the United Kingdom Office of Fair Trading and the United Kingdom Directorate for Trade and Industry information regarding consumer protection investigations involving U.K. businesses or consumers (65 FR 67011–02 (Nov. 8, 2000)). With respect to Canadian law enforcement agencies, the Associate Director for International Consumer Protection can redelegate this authority to individual Regional Directors on specific cases and projects as appropriate. In addition, the Commission has delegated to the Associate Director for International Consumer Protection the authority to execute econsumer.gov confidentiality agreements with consumer protection authorities from current or future International Marketing Supervision Network (IMSN) member countries, and to execute Consumer Sentinel confidentiality agreements with any foreign law enforcement agency whose access has been authorized or is authorized in the future by the Commission or by the Commission's delegate, including without limitation Canadian and Australian law enforcement agencies.

This delegated authority does not apply to competition-related investigations. When exercising its delegated authority, staff will require from the relevant foreign law enforcement agency assurances of confidentiality. Disclosures shall be made only to the extent consistent with limitations on disclosure, including section 6(f) of the FTC Act, 15 U.S.C. 46(f), section 21 of the Act, 15 U.S.C. 57b–2, and the Commission Rule 4.10(d), 16 CFR 4.10(d), and with the Commission's enforcement policies and other important interests. Where the subject matter of the information to be shared raises significant policy concerns, staff shall notify the Commission before disclosing such information.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–17325 Filed 7–9–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that

notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—06/10/2002			
20020302	L–3 Communications Holdings, Inc.	PerkinElmer, Inc	PerkinElmer Detection Systems, Inc. (California) PerkinElmer Detection Systems, Inc. (Delaware)
20020761	Telephone and Data Systems, Inc. Voting Trust.	PrimeCo Wireless Communications LLC.	PrimeCo Wireless Communications LLC.
20020812	TEPPCO Partners, L.P	Burlington Resources Inc	Burlington Resources Inc.
20020818	Sanmina-SCI Corporation	Siemens Aktiengesellschaft	Siemens Aktiengesellschaft.
20020820	Stephen A. Wynn	Wynn Resorts, Inc	Wynn Resorts, Inc.
20020821	Aruze Corp.	Wynn Resorts, Inc	Wynn Resorts, Inc.
20020823	Royal Bank of Canada	Barclays Bank PLC	Barclays Bank PLC.
20020825	Bingham Dana LLP	McCutchen, Doyle, Brown & Enersen, LLP.	McCutchen, Doyle, Brown & Enersen, LLP.
20020827	Chittranjan K. Thakkar and Saloni Thakkar.	Computer Sciences Corporation	Computer Sciences Corporation.
20020834	Stronach Trust	The Midpointe Trust	Lone Star Race Park, Ltd.
Transactions Granted Early Termination—06/12/2002			
20020798	SBC Communications Inc	SpectraSite Holdings, Inc	CA/NV Tower Holdings, LLc
Transactions Granted Early Termination—06/13/2002			
20020804	ENSCO International Incorporated.	Chiles Offshore Inc	Chiles Offshore Inc.
20020822	Citigroup Inc	Golden State Bancorp Inc	Auto One Acceptance Corporation. CalFed Investments. First Nationwide Mortgage Corporation.
20020839	Mr. Paris Mouratoglou	Investeringsselskabet Energy Holding A/S.	enXco, Inc.
Transactions Granted Early Termination—06/14/2002			
20020776	Hilb, Rogal and Hamilton Company.	Hobbs Group, LLC	Hobbs Group, LLC.
20020789	Pactiv Corporation	Philip Kamins	Winkler Forming, Inc.
20020831	J.P. Morgan Chase & Co	MasterCard Incorporated	MasterCard Incorporated.
20020843	Wendy's International, Inc	Fresh Enterprises, Inc	Fresh Enterprises, Inc.
20020844	Trident II, L.P	Citigroup Inc	Commercial Insurance Resources, Inc.
20020847	REMEC, Inc	Spectrian Corporation	Spectrian Corporation.
20020848	California Physicians' Service	Lifeguard, Inc	Lifeguard, Inc.
20020854	William E. Simon & Sons Private Equity Partners, L.P.	CFP Group, Inc	Custom Food Products, Inc.
20020855	Tier Technologies, Inc	Comerica Incorporated	Official Payments Corporation.
Transactions Granted Early Termination—06/18/2002			
20020836	The Goldman Sachs Group, Inc	Walter N. Frank & Co., LLC	Walter N. Frank & Co., LLC.
20020837	Anthem, Inc	Trigon Healthcare, Inc	Trigon Healthcare, Inc.
20020867	Openwave Systems Inc	SignalSoft Corporation	SignalSoft Corporation.
20020870	PwCC Limited	Pricewaterhouse Coopers LLP	PWCC LO.
Transactions Granted Early Termination—06/19/2002			
20020830	ABRY Partners IV, L.P	Hughes Holding, Inc	Hughes Holding, Inc.
20020849	Citigroup Inc	MasterCard Incorporated	MasterCard Incorporated.
Transactions Granted Early Termination—06/20/2002			
20020826	General Electric Company	American United Mutual Insurance Holding Company.	American United Life Insurance Company. AUL Long Term Care Solutions, Inc. AUL Reinsurance Management Services (Canada), Ltd. AUL Reinsurance Management Services, LLC.
20020850	Key Energy Services, Inc	Q Services, Inc	Q Services, Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Director on the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–17323 Filed 7–9–02; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

[Document No. JFMIP–SR–02–03]

Joint Financial Management Improvement Program (JFMIP)—Federal Financial Management System Requirements (FFMSR)

AGENCY: Joint Financial Management Improvement Program (JFMIP).

ACTION: Notice of document availability.

SUMMARY: The JFMIP is seeking public comment on an exposure draft entitled ''Non-Income Tax Revenue System Requirements,'' dated July 2002. The draft is the first Federal Financial Management System Requirements (FFMSR) document to address standard financial requirements for Federal non-income tax revenue systems. The document is intended to assist agencies when developing, improving or evaluating revenue systems. It provides the baseline functionality that agency systems must have to support agency missions and comply with laws and regulations. When issued in final, the document will augment the existing body of FFMSR that define financial system functional requirements which are used in evaluating compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996.

DATES: Comments are due by September 13, 2002.

ADDRESSES: Copies of the exposure draft have been mailed to senior financial officials and chief information officers, together with a transmittal memo listing items of interest for which JFMIP is soliciting feedback. The Exposure Draft and transmittal memo are available on the JFMIP Web site: *WWW.JFMIP.GOV.* Responses should be addressed to JFMIP, 1990 K Street, NW., Suite 430, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Daniel Costello, (202) 219–0542 or *daniel.costello@gsa.gov.*

SUPPLEMENTARY INFORMATION: The FFMIA of 1996 mandated that agencies implement and maintain systems that comply substantially with FFMSR, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The FFMIA statute codified the JFMIP financial system requirements documents as a key benchmark that agency systems must meet to substantially comply with systems requirements provisions under FFMIA. To support the provisions outlined in the FFMIA, the JFMIP is updating obsolete requirements documents and publishing additional requirements documents. Comments received will be reviewed and the exposure draft will be revised as necessary. Publication of the final document will be mailed to agency financial officials, chief information officers, and others, and will be available on the JFMIP Web site.

An open house is scheduled for August 8, 2002, from 1 to 3 pm in the OPM main auditorium, located at 1900 E Street NW., to provide additional information on the Exposure Draft. The name, organization, telephone number, and e-mail address for attendees should be e-mailed to *daniel.costello@gsa.gov* or faxed to 202–219–0549.

Karen Cleary Alderman,

Executive Director, Joint Financial Management Improvement Program.

[FR Doc. 02–17204 Filed 7–9–02; 8:45 am]

BILLING CODE 1610–02–M

GENERAL ACCOUNTING OFFICE

Opportunity To ''Ride'' Printing Order for Volume V of GAO's Principles of Federal Appropriations Law

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: GAO is publishing Volume V of Principles of Federal Appropriations Law, second edition—known as ''The Red Book.'' Agencies may now place advance (rider) orders for copies of this volume with GPO.

DATES: Rider order must be received by GPO no later than August 1, 2002.

SUPPLEMENTARY INFORMATION: The General Accounting Office (GAO) will shortly publish volume V of Principles of Federal Appropriations Law, second edition—also known as ''The Red Book.'' Volume V consists of a comprehensive index and tables of authority covering all of the preceding four volumes. Volume V completes the second edition of GAO's Principles of Federal Appropriations Law.

GAO will provide one copy of this volume to the heads of federal agencies. Agencies may place advance (rider) orders for additional copies of this volume with their account representatives at the Government Printing Office (GPO).

This notice is not intended to solicit orders from the general public for single copies or small order of this volume. GPO will offer volume V for sale to the general public at a later time.

Rider orders for Volume V should be placed on a Standard Form 1 and should specify GAO Requisition No. 200061. Agency orders for Volume V must be received by GPO no later than August 1, 2002. Rider requisitions for Volume V will not be accepted after this date, and additional copies will have to be purchased from the Superintendent of Documents. All rider requisitions must be submitted to GPO through each agency's Washington, DC. headquarters printing procurement office. We are advised that GPO will return all requisitions sent directly from field or regional offices.

In compiling your agency's total order, GAO suggests that you take into consideration the needs of legal offices, finance offices, contracting offices, libraries, Inspector General offices, field and regional offices, and any other elements of your agency that might use this publication.

Unlike the previous four volumes of this series, Volume V of Principles of Federal Appropriations Law will be printed in the ''perfect-bound'' format. Consequently, it will not require a binder.

(Authority: 31 U.S.C. 717, 719, 3511, 3526–29.)

Dated: July 3, 2002.

Anthony Gamboa,

General Counsel, United States General Accounting Office.

[FR Doc. 02–17336 Filed 7–9–02; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations—Working Group on Quality.

Time and Date: 9 a.m.–4 p.m., July 25, 2002.

Place: Hotel Monaco, 225 North Wabash, Chicago, IL, (312) 960–8500.

Status: Open.

Purpose

The purpose of the meeting is to provide the NCVHS Work Group on Quality with expert opinion and information about the adequacy of existing health data systems for supporting quality measurement at the individual practitioner level and to identify needed improvements in existing data and data collection mechanisms. The scope of interest includes administrative data, vital records data, medical records data and survey data. At the meeting, an invited panel of experts will provide their perspectives on these issues.

In addition, the Work Group will hear from invited panels of experts about topic areas to be included in the National Healthcare Quality Report, including the Preliminary Measure Set for the report now under development within the Agency for Healthcare Research and Quality. The AHRQ Preliminary Measure Set will be available on the AHRQ website after July 12. The Institute of Medicine has recommended a framework and criteria for selecting measures for the National Healthcare Quality Report, and AHRQ has prepared a draft list of proposed topic areas and measures to be included. Information about the AHRQ Preliminary Measure Set may be obtained by contacting: Ed Kelly, Ph.D., Senior Service Fellow, National Healthcare Quality Report, Center for Quality Improvement and Patient Safety, Agency for Healthcare Research and Quality, 6011 Executive Boulevard, Suite 200, Rockville, MD 20852, *ekelly@ahrq.gov*

FOR FURTHER INFORMATION CONTACT: Substantive program information as well as summaries of meetings and a roster of NCVHS Committee members may be obtained from Stanely Edinger Ph.D., Lead Staff Person for the NCVHS Subcommittee on Special Populations, Working Group on Quality, Agency for Healthcare Research and Quality, 6011 East Jefferson Street, Suite 200, #106, Rockville, MD 20852, telephone (301) 594–1598; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs,* where an agenda for the meeting will be posted when available.

Dated: July 3, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–17292 Filed 7–9–02; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Workgroup on the National Health Information Infrastructure.

Time and Date: 9 a.m. 1–4 p.m., July 24, 2002.

Place: Hotel Monaco, 225 North Wabash, Chicago, IL 60601.

Status: Open.

Purpose: At this meeting the Workgroup on the National Health Information Infrastructure will hold a hearing to explore standards issues related to personal health and population health issues, and attend to other business as required.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Mary Jo Deering, Lead Staff Person for the NCVHS Workgroup on the National Health Information Infrastructure, Office of the Assistant Secretary for Public Health and Science, DHHS, Room 738G, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 260–2552, or Majorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where an agenda for the meeting will be posted when available.

Dated: July 2, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–17293 Filed 7–9–02; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee.

Time and Date: 8 a.m.–4:30 p.m., July 26, 2002

Place: Hotel Monaco, 225 North Wabash, Chicago, IL 60601.

Status: Open.

Purpose: This meeting of the Executive Subcommittee will be held for Committee work planning purposes. The Subcommittee will plan future Committee meetings and review work plans for 2002 and early 2003. Strategic planning will include organizing and integrating agenda issues across priorities, reviewing the efficiency and effectiveness of the current Committee structure and meeting schedule, and positioning the Committee to address new and emerging topics.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: *http://www.ncvhs.hhs.gov/,* where further information will be posted when available.

Dated: July 2, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–17294 Filed 7–9–02; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–68]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Reader Evaluations of Public Health Assessments and Other Products (OMB No. 0923–0016)—Reinstatement with changes—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 Reauthorization Act (SARA), to perform health assessments for each facility on the National Priorities List and for releases or facilities where individuals have been exposed to a hazardous substance. In addition, ATSDR provides consultations on health issues relating to exposure to hazardous or toxic substances to officials at the Environmental Protection Agency (EPA), and state and local government. The principal audiences for these products are health professionals at the federal, state, and local levels, staff in public libraries and repositories, interested private sector organizations and groups, and members of the public.

In order to make ATSDR products such as health assessments, consultations, exposure investigations, and fact sheets timely and relevant, ATSDR staff developed a survey questionnaire (OMB 0923–0016) to get readers' opinions and evaluations. The survey will be inserted and mailed in each public health assessment. In addition, electronic surveys will be sent to clients and partners requesting ATSDR health consultations and exposure investigations within 1 month following delivery of product or service. The survey collects information on (a) affiliation of users, (b) timeliness and effectiveness of these products, and (c) practical utility of these products.

The reader evaluation surveys provide important feedback that enables ATSDR staff to maintain the utility, integrity and standards of its products. Gathering client feedback ensures that appropriate information is included in these documents and assists in maintaining medical and scientific usefulness. The information will be used to maintain customer satisfaction with these products. There is no cost to respondents.

Respondents	Number of respondents	Responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Community member reviewing public health assessments	130	1	15/60	32.5
Environmental regulatory official requesting health consultations	210	1	15/60	52.5
Community member requesting health consultations	50	1	15/60	12.5
Community member reviewing public health fact sheets	750	1	15/60	187.5
Total				285

Dated: July 3, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–17295 Filed 7–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: National Center for Prevention of Childhood Agricultural Injury, Program Announcement Number: OH–02–006

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): National Center for Prevention of Childhood Agricultural Injury, Program Announcement Number: OH–02–006.

Times and Dates: 7:30 p.m.–9 p.m., August 4, 2002 (Open), 8 a.m.–6 p.m., August 5, 2002 (Closed), 8 a.m.–10 a.m., August 6, 2002 (Closed).

Place: National Children's Center For Rural Agricultural Health and Safety, 1000 North Oak Avenue, Marshfield, WI 54449, phone (888) 924–7233.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to RFA OH–02–006.

Contact Person for More Information: Price Connor, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road NE, Atlanta, GA 30333, telephone (404) 498–2511. 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: July 2, 2002.

Joe Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–17303 Filed 7–9–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0209]

Request for Comment on First Amendment Issues

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to September 13, 2002, the comment period for original comments and is extending to October 28, 2002, the comment period for responses to those comments relating to FDA's Request for Comment on First Amendment Issues published in the **Federal Register** of May 16, 2002 (67 FR 34942). The agency is taking this action in response to requests for an extension.

DATES: Submit written or electronic comments on the Request for Comment on First Amendment Issues by September 13, 2002, and submit written or electronic responses to those comments by October 28, 2002.

ADDRESSES: Submit written comments 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: Catherine Lorraine, Office of Policy, Planning, and Legislation (HF–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 2002 (67 FR 34942), FDA published a document entitled ''Request for Comment on First Amendment Issues.'' In this document FDA asked the public to comment on a number of questions to help ensure that the agency's regulations, guidances, policies, and practices continue to comply with the governing First Amendment case law. Recent case law has emphasized the need for not imposing unnecessary restrictions on speech. The document also stated the agency's wish to learn what empirical evidence exists concerning, among other things, the effect of commercial speech on the public health.

The agency received three letters requesting that the agency extend the comment period for 60 days until September 30, 2002, for the submission of comments and until November 13, 2002, for the submission of responses to the comments. The three requests cited the need for additional time because of the complexity and importance of the subject matter to be commented on. The requests also stated an extension was needed to enable consultation with a variety of individuals, including social science and other experts, as well as business partners. One request pointed out that summer vacation schedules would make this consultation even more difficult. FDA has determined that it is appropriate to grant these requests. However, FDA believes that an additional 45 days will be sufficient time to allow for the consultations discussed and the preparation of comments.

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the document requesting comment on First Amendment issues by September 13, 2002, and responses to comments by October 28, 2002. Three 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. Comments and responses to comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 3, 2002.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 02–17275 Filed 7–9–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the fiscal year 2001 annual report for the following Health Resources and Services Administration's Federal advisory committee has been filed with the Library of Congress:

Health Professions and Nurse Education Special Emphasis Panel

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, James Madison Memorial Building, Room 133, Independence Avenue, SE., between 1st and 2nd Streets, Washington, DC.

Copies may be obtained from: Ms. Theresa Derville, Acting Director, Office of Peer Review, Bureau of Health Professions, Parklawn Building, Room 8C–23, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone 301–443–6339.

Dated: July 2, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–17352 Filed 7–9–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: June 2002

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of June 2002, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusions is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ACEVEDO, IVETTE MIAMI, FL	07/18/2002
AGUILAR, JOEL MAZARIEGOS POMONA, CA	07/18/2002
ALVAREZ, MARIO JUNCOS, PR	07/18/2002
AREVALO, MARIO WEST COVINA, CA	07/18/2002
ATKINS, NICHOLAS C ST CHARLES, IL	07/18/2002
BARRETO, GUILLERMO JOSE SAN DIEGO, CA	07/18/2002
BELL-WISDOM, GLORIA FAY ROLLA, MO	07/18/2002
BOBO, PHILLIP K TUSCALOOSA, AL	07/18/2002
BOBO, PHILLIP K TUSCALOOSA, AL	07/18/2002
BOGINSKY, JULYA NEW YORK, NY	07/18/2002
BRENNER, STEPHEN ROSLYN, NY	07/18/2002
BRIOSO, LUIS ALBERTO BELLE GLADE, FL	07/18/2002
BRUSO, ROBERT ST CLOUD, FL	07/18/2002
BRYANT, YOLANDA KAY HOUSTON, TX	07/18/2002
CABRERA, MARTHA MIAMI, FL	07/18/2002
CABRERA-MARES, LAURA MIAMI, FL	07/18/2002
CABRERA-MEDRANO, BEATRIZ MIAMI, FL	07/18/2002
CAMPO, JACK MIAMI, FL	07/18/2002
CARLOW, SHELLI DAVIE, FL	07/18/2002
CHILDRESS, LARRY JOE HOUSTON, TX	07/18/2002
DEFANA, DANIEL MIAMI, FL	07/18/2002
DELATORRE, DORIS E ST PETERSBURG, FL	07/18/2002
DOGGETTE, CARL N MONTGOMERY, AL	07/18/2002
DUBIN, GARY I BEVERLY HILLS, CA	07/18/2002
DYSART, DEBORAH LYLE BRYAN, TX	07/18/2002
EM, PORNN	07/18/2002

Subject, city, state	Effective date
PERRIS, CA	
FEDERGREEN, WARREN ROSS ..... JENSEN BEACH, FL	07/18/2002
FERRER, BONIFACIO H ..... BRECKSVILLE, OH	07/18/2002
FINE GOLD HEALTH CENTER, INC ..... GLENDALE, CA	07/18/2002
FRAGA, EDUARDO ..... HOMESTEAD, FL	07/18/2002
GALIOTO, SALVATORE J ..... WILMETTE, IL	07/18/2002
GALLANT, ROBERT E ..... LEXINGTON, KY	07/18/2002
GARCIGA, ACELIA ..... HIALEAH, FL	07/18/2002
GEVORKIAN, GRIGOR ..... LONG BEACH, CA	07/18/2002
GRAFFREE, TYRONE ..... PLYMOUTH, WI	07/18/2002
GRAY, CARLA JO ..... GRAND JUNCTION, CO	07/18/2002
GUTIERREZ, JUAN B ..... CORAL SPRINGS, FL	07/18/2002
GYULNAZARYAN, SVETLANA MISHAYE ..... SANGER, CA	07/18/2002
HINOJOSA, JORGE ALFONSO CHULA VISTA, CA	07/18/2002
HURST, JOHN M ..... HARRISBURG, PA	07/18/2002
JEMINI, DAVID ..... FAIRTON, NJ	07/18/2002
JEMINI, JACK ..... EGLIN AFB, FL	07/18/2002
JETER, NINA L ..... MARYVILLE, WA	07/18/2002
JONAH, YUKO U ..... DENVER, CO	07/18/2002
KELLER MEDICAL SERVICE, INC ..... FORREST CITY, AR	07/18/2002
KHAN, ABDUL H ..... TARPON SPRINGS, FL	07/18/2002
KNIGHT, SHIRLEY B ..... TARBORO, NC	07/18/2002
LOPEZ, GLADYS ..... MIAMI BEACH, FL	07/18/2002
MALONEY, RITA I ..... RONAN, MT	07/18/2002
MARKAVA TRANSPORTATION CO, INC ..... SUFFERN, NY	07/18/2002
MASSA, ALFRED N ..... WHITE DEER, VA	07/18/2002
MAXWELL, KENDRA ..... ONTARIO, CA	07/18/2002
MCCLEARY, COLLEEN R ..... LACEY, WA	07/18/2002
MCGOVERN'S AMBULANCE SERVICE ..... PORT CHARLOTTE, FL	04/16/2002
MCGUIRE, MARK ..... LEXINGTON, KY	07/18/2002
MEDEMA, DIANE L ..... IRVING, NY	07/18/2002
MITTAL, BRIJ ..... OTISVILLE, NY	07/18/2002
MURRAY, GAYLAN WADE ..... MEMPHIS, TN	07/18/2002
NORTON, JAMES MICHAEL ... COLEMAN, FL	07/18/2002
NOVAK, STEVEN A ..... PEPPER PIKE, OH	07/18/2002
ORTEGA, VICTOR ..... SAN JUAN, PR	07/18/2002
PETERS, ALICE ..... DAYTON, TX	07/18/2002
PETRILLO, HENRY J ..... NEW PORT RICHEY, FL	07/18/2002
PINKOFF, LAWRENCE D ..... HOLLYWOOD, FL	07/18/2002
POOT, MAGALY ..... MIAMI, FL	07/18/2002
REDFERN, RONALD ORVILLE PLANTATION, FL	07/18/2002
ROBERT, ALFREDO ..... MIAMI, FL	07/18/2002
ROGUE, ILIANA ..... MIAMI, FL	07/18/2002
ROSENSWEET, MARTIN I ..... FORT DIX, NJ	07/18/2002
RUIZ, ROSARIO ..... MIAMI, FL	04/10/2001
SANCHEZ, LAURA SUE ..... APPLE VALLEY, CA	07/18/2002
SARKISSIAN, SHUSHAN ..... LOS ANGELES, CA	07/18/2002
SHIELDS, JOHN C ..... PITTSBURGH, PA	07/18/2002
SOUTHARD, PATRICIA ANN .. ALDERSON, WV	07/18/2002
STOVER, ROBIN R ..... LARGO, FL	07/18/2002
SUMMERLIN, JOANN ..... ZOLFO SPRINGS, FL	07/18/2002
SWILLING, DAWN ..... COLEMAN, FL	07/18/2002
SYCHAK, NICHOLAS A ..... MORGANTOWN, WV	07/18/2002
TAPANES, DAYSI C ..... HIALEAH, FL	07/18/2002
TENNANT, FORREST S JR .... WEST COVINA, CA	07/18/2002
VERONA, ALICIA ..... MIAMI, FL	07/18/2002
WEINBERG, JOSEPH ..... SUFFERN, NY	07/18/2002
WILLIAMS-KELLY, JOYCE ..... FREEPORT, NY	07/18/2002
WOLICKI, ELIAV ISRAEL ..... NEW HEMPSTEAD, NY	07/18/2002
WOODARD, MALCOLM S ..... HOPKINSVILLE, KY	07/18/2002
YUVIENCO, SIMON ..... PAMPLONA (PH) 3522,	07/18/2002
ZUZO, ELLEN ..... LOS ANGELES, CA	07/18/2002
FELONY CONVICTION FOR HEALTH CARE FRAUD	
ASEMANI, GHAFOUR B ..... ELLICOTT CITY, MD	07/18/2002
FRAWLEY, MARK A ..... COOPERSBURG, PA	07/18/2002
JAGGERS, KIMBERLEE ELIZABETH ..... COLEMAN, FL	07/18/2002
JOHNSON, VIOLA ..... NASHVILLE, TN	07/18/2002
KARPIN, LEONARDO G ..... MEDFORD, NJ	07/18/2002
LONG, MARIE B ..... PIKEVILLE, TN	07/18/2002
OSTROSKY, ROBERT F ..... PITTSBURGH, PA	07/18/2002
SPEKTOR, JOSEPH ..... WOODCLIFF LAKE, NJ	07/18/2002
WIRTH, RANDOLPH ..... E LANSING, MI	07/18/2002
FELONY CONTROL SUBSTANCES CONVICTION	
CHANDLER, SIDNEY MINTHORN ..... AUBURN, AL	07/18/2002
CLARK, JOY JANELL ..... CEDAR HILLS, UT	07/18/2002
DUCKWORTH, DEREK EDWARD ..... TOLEDO, OH	07/18/2002
GARSOW, LORI KIM ..... GRAND RAPIDS, MN	07/18/2002
GUANOJUATO, ERIC ..... PINE BLUFF, AR	07/18/2002
GUIDO, JAMES N ..... FLATWOODS, KY	07/18/2002
KADER, MITCHELL EDWIN .... IRVINE, CA	07/18/2002
KLOTZ, LINN ROBERT ..... ORLANDO, FL	07/18/2002
MEDINA, ALICIA ERLINDA ..... HIGHLAND, CA	07/18/2002
PAPPEL, PAMELA JEANNE .... GRAND JUNCTN, CO	07/18/2002
RUTTER-WASSOM, DIANE JOY ..... FT COLLINS, CO	07/18/2002
SMITH FOSS, BRENDA L ..... WAGONER, OK	07/18/2002
SOKOL, JENNIFER CLARE .... MARION, IA	07/18/2002
TORE, JOSEPH A ..... TOLEDO, OH	07/18/2002
WIGINTON, CAROLYN C ..... SHAWNEE, OK	07/18/2002
WOODWARD, MICHAEL H ..... RHINECLIFF, NY	07/18/2002
WRIGHT, VALERIE H ..... JACKSONVILLE, FL	07/18/2002
PATIENT ABUSE/NEGLECT CONVICTIONS	
BARTOW, SUSANA ..... SALEM, NY	07/18/2002
BLAKENEY, LISA HOUSTON .. ALVARADO, TX	07/18/2002
BOND, GLORIA J ..... BROKEN BOW, OK	07/18/2002
BURNETT, MILAN CAPRICE .. COFFEYVILLE, KS	07/18/2002
CANSLOR, FLORA ANN ..... CLARKSDALE, MS	07/18/2002
DAVIS, CAROLYN ..... GRANDFIELD, OK	07/18/2002
EDDY, FREEMAN ..... PARKER, AZ	07/18/2002
FINANCIAL SECURITY, INC ... OURAY, CO	07/18/2002
GABUS, JOSEPH THOMAS .... HUNTSVILLE, TX	07/18/2002
GLASER, VICTORIA MARIA ... RENSSELAER, NY	07/18/2002
GREEN, KENNETH S III ..... LA JOLLA, CA	07/18/2002
GRIFFIN, ERICA ..... D'LO, MS	07/18/2002
HALCOMB, DUSTY ALLEN	07/18/2002

Subject, city, state	Effective date
NOWATA, OK	
HANN, MALINA LYNN ..... SPOKANE, WA	07/18/2002
HARVEY, JERRY WAYNE ..... DEWEY, OK	07/18/2002
HENDERSON, CATHERINE RENA ..... KOSCIUSKO, MS	07/18/2002
HICKS, BYRON ..... PRENTISS, MS	07/18/2002
KEATON, TIMOTHY CLYDE ... MOREHEAD, KY	07/18/2002
KIM, DAE HYUN ..... SANTA MARIA, CA	07/18/2002
MCQUEEN, NANCY E ..... CONWAY, SC	07/18/2002
PAULOS, GEORGE M ..... CONWAY, AR	07/18/2002
PITTMAN, BRENDA WALKER PRENTISS, MS	07/18/2002
SALANGO, REBECCA ..... CARSON, CA	07/18/2002
SANDERS, RUTH HELEN ..... HOT SPRINGS, AR	07/18/2002
SELPH, JOHN H ..... VANCOUVER, WA	07/18/2002
STALNAKER, SHEILA B ..... SULLIVAN, IL	07/18/2002
SUMMLEARS, EMMA ..... HOLLY SPRINGS, MS	07/18/2002
TOMLINSON, JUNE MONICA EUCLID, OH	07/18/2002
TRAVIS, MICHAEL A ..... NASHVILLE, TN	07/18/2002
WOODS, VONDA ..... OXFORD, MS	07/18/2002
WRIGHT, CHRYSTAL ANNETTE ..... SOMERSET, KY	07/18/2002
CONVICTION FOR HEALTH CARE FRAUD	
CIPOLLA, JOHN A ..... CRANSTON, RI	07/18/2002
MARCELJA, EVELYN GLAZER STONEHAM, MA	07/18/2002
MCINTOSH, YVETTE SIMONE DETROIT, MI	07/18/2002
SMITH, DARRON TERRY ..... PROVO, UT	07/18/2002
CONVICTION-OBSTRUCTION OF AN INVESTIGATION	
MCCLEAN, EDWARD ..... MARLTON, NJ	7/18/2002
CONTROLLED SUBSTANCE CONVICTIONS	
LINI, MEGAN NOREEN ..... SAN DIEGO, CA	7/18/2002
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ABAIR, DARLENE A ..... WILLIAMSTOWN, VT	07/18/2002
ABROMS, PHILLIP L ..... FLORENCE, AL	07/18/2002
ADAMS-SMITH, PAMELA ..... BOGUE CHITTO, MS	07/18/2002
ANDERSON, THERESA JANE ST PAUL, MN	07/18/2002
APARICIO, FRANCES C ..... PIRTLEVILLE, AZ	07/18/2002
APPLEMAN, MICHAEL A ..... MINNEAPOLIS, MN	07/18/2002
ARTIS, TYSHAUN THORTON HOT SPRINGS, AR	07/18/2002
BAGGETT, CHARLES LYNN ... LIVE OAK, CA	07/18/2002
BARRERA, A RODOLFO JOSE ..... MIAMI, FL	07/18/2002
BASS, MITZI LUCILLE ..... TERRELL, TX	07/18/2002
BAULER, GEORGE JAMES .... WICHITA, KS	07/18/2002
BEASLEY, ANGELIA MARIE ... BLYTHEVILLE, AR	07/18/2002
BEATTY, NIANNE HATHHORN AUSTIN, TX	07/18/2002
BECK, BETTY L ..... LITTLE ROCK, AR	07/18/2002
BELL, JIMMIE MACK ..... BELTON, TX	07/18/2002
BENTLEY, EARLE L III ..... RICHLAND, MS	07/18/2002
BOLDEN, JACQUELINE ..... GREENVILLE, MS	07/18/2002
BOWE, JUDITH MAE ..... WALKER, MN	07/18/2002
BOWMAN, MARCELLA E STAPLETON ..... INDEPENDENCE, KY	07/18/2002
BRANNON, DONYA S ..... OCEAN SPRINGS, MS	07/18/2002
BROADNAX, DENISE CHARLENE ..... CASTRO VALLEY, CA	07/18/2002
BROOMFIELD, SHIRLEY ANN LOS ANGELES, CA	07/18/2002
BROWN, JAMES M ..... HENDERSONVILLE, TN	07/18/2002
BRUNSON, VALERIE MICHELLE ..... BIRMINGHAM, AL	07/18/2002
CALLAHAN, JACKIE LYNN ..... HOUSTON, TX	07/18/2002
CARPENTER, THOMAS JAMES ..... BELLA VISTA, CA	07/18/2002
CARPENTER, ROBERT ..... SAN FRANCISCO, CA	07/18/2002
CECH, STEPHEN A ..... BAKERSFIELD, CA	07/18/2002
CHAMBERS, DELORA GAYE TAYLOR ..... AMITY, AR	07/18/2002
CHO, LEELAND PHILIP ..... ANCHORAGE, AK	07/18/2002
CLAIR, MICHAEL JEROME ..... ORLANDO, FL	07/18/2002
CLARK, HEATHER L ..... ANDALUSIA, AL	07/18/2002
CLARK, MARVARAI ..... LUCEDALE, MS	07/18/2002
COMRIE, SHIRLEY M ..... TRENTON, NJ	07/18/2002
CONSTANTINO, LISA ..... SAN FRANCISCO, CA	07/18/2002
CONTRERAS, MICAEL ANTHONY ..... STOCKTON, CA	07/18/2002
CUARTAS, ANNA ..... PEMBROKE PINES, FL	07/18/2002
DAVIS, MARCY S ..... DELRAY BEACH, FL	07/18/2002
DAVIS, DORA JO ..... CARBON HILL, AL	07/18/2002
DENNISON, AMY CAROL FOUSHEE ..... LOUISVILLE, KY	07/18/2002
DOVE, JOSEPH F ..... JOELTON, TN	07/18/2002
EADDY, PAMELA DIANE ..... LONG BEACH, CA	07/18/2002
EKSTEROWICZ, DEBORAH ... MT EPHRAIM, NJ	07/18/2002
EWING, JOYCELYN ..... MONTICELLO, MS	07/18/2002
EYE, PAULA M ..... CHILLICOTHE, MO	07/18/2002
FANNING, KELLY L ..... NARRAGANSETT, RI	07/18/2002
FARAH, MINA ..... RICHMOND HILL, NY	07/18/2002
FARMER, SHERRI LYNN ..... JACKSONS GAP, AL	07/18/2002
FEDER, ROBERT DEAN ..... CHICO, CA	07/18/2002
FISCHER, MARIE TENBARGE EVANSVILLE, IN	07/18/2002
FISHER, BLAISE N ..... DORCHESTER, MA	07/18/2002
FORRESTER, RON P JR ..... ROCKFORD, IL	07/18/2002
FOWLER, EDWARD ANDREW JACKSONVILLE, NC	07/18/2002
FRANKLIN, TERESA JO ..... COON RAPIDS, MN	07/18/2002
FRAYSIER, KAREN K ..... GRAY, TN	07/18/2002
FRAZIER, ALEXANDER GORDON ..... ASHTABULA, OH	07/18/2002
FUREY, DANIEL MARLOW ..... ST ALBANS, NY	07/18/2002
GADSON, SHEILA DENISE ..... HUNTSVILLE, AL	07/18/2002
GARDNER, JAMES DONALD FRESNO, CA	07/18/2002
GELORMINO, CHRISTOPHER JAMES ..... SANTA ROSA, CA	07/18/2002
GILLIAM, MELISSA SUE ..... PORTER, TX	07/18/2002
GOLDWATER, EDWARD G .... PHOENIX, AZ	07/18/2002
GRAY, LENA MARIE ..... LAFAYETTE, IN	07/18/2002
GRAY, RALPH C ..... ELIZABETH CITY, VA	07/18/2002
GREENE, LESLIE H SMITH .... EPPING, NH	07/18/2002
GREENE, CHARLENE ADELE LONG BEACH, CA	07/18/2002
GUDKNECHT, CECILIA ANN .. CATHEDRAL CITY, CA	07/18/2002
GULLEY, LOIS MARIE ..... STOCKTON, CA	07/18/2002
HALL, JOSEPH I ..... CLEVELAND, TN	07/18/2002
HAMILTON, JAMES RALPH JR ..... CLANTON, AL	07/18/2002
HARNER, LAURA PIERCY ..... NEW RIVER, AZ	07/18/2002
HIPP, KAREN	07/18/2002

Subject, city, state	Effective date
GRENADA, MS	
HOFFMAN, JOSEPHINE A ..... WORCESTER, MA	07/18/2002
HOLBROOK, JAMES K ..... MOREHEAD, KY	07/18/2002
HOLDER, REA ANN ..... AZLE, TX	07/18/2002
HOLDRIDGE, CHARLOTTE ANNE ..... DADEVILLE, AL	07/18/2002
HOLLINS, CAMELLIA ROSE ... MINNEAPOLIS, MN	07/18/2002
HUCKABY, WINSTON JR ..... PASADENA, TX	07/18/2002
HUNEYCUTT, CAROLINE ANN ..... HUNTSVILLE, AL	07/18/2002
HUNKIN, JENNIFER MAY ..... MCALLEN, TX	07/18/2002
HUNSICKER, MARILYN ..... GALLUP, NM	07/18/2002
IANNELLI, MICHAEL G ..... W WARWICK, RI	07/18/2002
IRONS, SHERRY L ..... PASCOAG, RI	07/18/2002
JACKSON, SAMUEL S ..... NASHVILLE, TN	07/18/2002
JENKINS, BARBARA ROWE ... PINE BLUFF, AR	07/18/2002
JOHNSON, GAYE PRESTON BALLINGER, TX	07/18/2002
JOHNSON, JILL OLIVIA EL-LIOT ..... OWENSBORO, KY	07/18/2002
JOHNSTON, HEATHER OAK-LEY ..... NEW BRIGHTEN, PA	07/18/2002
JONES, JEREMY P ..... MESA, AZ	07/18/2002
KEECH, DEBRA JANE ..... STILLWATER, MN	07/18/2002
KIM, CHIN HO ..... LOS ANGELES, CA	07/18/2002
KING, JESSE ROBERT ..... FOUNTAIN VALLEY, CA	07/18/2002
KING, DANIEL LEE ..... NAPA, CA	07/18/2002
KOGAN, ELEONORA ..... KNOXVILLE, TN	07/18/2002
KONRAD–PIALA, JULIA DIANE ..... RAMONA, CA	07/18/2002
LAMOUREUX, MELISSA S ..... WOONSOCKET, RI	07/18/2002
LANG, JULIE A ..... FOSTER, RI	07/18/2002
LANIER, JUDY ANN ..... GLADEWATER, TX	07/18/2002
LATHAM, KATHY RUSSELL ... IVANHOE, TX	07/18/2002
LAWRENCE, JADAH RASHIDAH ..... CHICAGO, IL	07/18/2002
LEE, SUN KUN ..... LA MIRADA, CA	07/18/2002
LOWE, THERESA YVONNE .... ARLINGTON, TX	07/18/2002
MAAS, MARK JAMES ..... LICKING, MO	07/18/2002
MACGREGOR, SHARON ELOUISE ..... WOODLAND, CA	07/18/2002
MADISON, MARCIA ELLEN	07/18/2002
CAMBRIDGE, MN	
MARDIS, JOSEPH S ..... GRENADA, MS	07/18/2002
MARIANO, LENI ..... MILL CREEK, WA	07/18/2002
MCCOLLEY, RHONDA K ..... DIAMONDHEAD, MS	07/18/2002
MCGRATH, JAMES JOHN ..... TUCSON, AZ	07/18/2002
MCGUIRE, JOAN ANN ..... HACKENSACK, MN	07/18/2002
MIKE, SANDRA JO ..... SAN FRANCISCO, CA	07/18/2002
MONTAYRE, PATERNO E ..... SPRING HILL, FL	07/18/2002
MONTGOMERY, CARTIUS LYONE ..... HALEYVILLE, AL	07/18/2002
MOORE, ROBERT FRANKLIN LORAIN, OH	07/18/2002
MURRAY, BETHANY SU-ZANNE ..... NICEVILLE, FL	07/18/2002
MYERS, MARY ..... LUFKIN, TX	07/18/2002
NELSON, MARY LOUISE ..... ONYX, CA	07/18/2002
NIELSEN, SKOTT NIELS–JORGEN ..... DULUTH, MN	07/18/2002
NOVICK, JAMES STEPHEN .... GLENDALE, CA	07/18/2002
O'DELL, LAWRENCE WAYNE SPRINGFIELD, OR	07/18/2002
ODEN, KELLY ANN ..... GLENCOE, AL	07/18/2002
OSBORNE, LINDA S ..... POULTNEY, VT	07/18/2002
PALAZZO, DOROTHY B ..... W WARWICK, RI	07/18/2002
PAPWORTH, SUSAN L ..... SALT LAKE CITY, UT	07/18/2002
PAQUETTE, BRUCE ..... LAKE WORTH, FL	07/18/2002
PATTERSON, PAULETTE ..... COLLINS, MS	07/18/2002
PEABODY, JAMES PAUL ..... MESA, AZ	07/18/2002
PEARSON, DONALD EUGENE SAN DIMAS, CA	07/18/2002
PETLOCK, GERALD A ..... DALY CITY, CA	07/18/2002
PIERCE, JOHN ..... NEW ORLEANS, LA	07/18/2002
PITTS, VESTA LEE ..... PLAINVIEW, TX	07/18/2002
PRATT, WAYNE PAUL ..... ROCKLEDGE, FL	07/18/2002
PREUITT, KIMBERLY ..... OXFORD, MS	07/18/2002
PRUETT, JUDY KATHLEEN .... SLIDELL, TX	07/18/2002
PUNCHARD, KEISHA ..... WINNSBORO, LA	07/18/2002
QUARTARONE, KEVIN FRANK ..... N MIAMI BCH, FL	07/18/2002
RATHBUN, TERRY COLEMAN DOWNINGTOWN, PA	07/18/2002
RATHER, ROBERT WILLIAM .. VALLEJO, CA	07/18/2002
RAVANERA, RUDOLPHO ..... S SAN FRANCISCO, CA	07/18/2002
RAVENTOS, MICHAEL	07/18/2002
PLEASANTON, CA	
RAYMO, VIRGINIA A ..... ENOSBURG FALLS, VT	07/18/2002
REDLAND DRUGS, INC ..... MIAMI, FL	07/18/2002
REULE, JEREMY KARL ..... RIVER FALLS, WI	07/18/2002
RILEY, JILL KATHLEEN ..... N LITTLE ROCK, AR	07/18/2002
ROBINSON, COLLEEN BONNIE ..... CRESCENT CITY, CA	07/18/2002
ROBINSON, STACY GIBSON INDIANOLA, MS	07/18/2002
ROBINSON–PURVIS, LORA ANN ..... JACKSON, MS	07/18/2002
RODGERS, ROCHELL ..... CANTON, MS	07/18/2002
RUSH, MELANIE ANN ..... KENTON, OH	07/18/2002
RUSSO, THERESA M ..... S CHATHAM, MA	07/18/2002
RUST, BOBBI JO ..... SPRINGFIELD, MO	07/18/2002
SALTER, DAVID EARL ..... HAYWARD, CA	07/18/2002
SAMADANI, SEPEHR ..... LOS ANGELES, CA	07/18/2002
SANTANA, NANCY ..... TUCSON, AZ	07/18/2002
SAWYER, STARLA S ..... YUMA, AZ	07/18/2002
SAWYER, STEPHANIE LYNN JASPER, AL	07/18/2002
SCHIPANI, MICHAEL L ..... PITTSBURGH, PA	07/18/2002
SCHNEIDER, HARVEY G ..... SHARON, MA	07/18/2002
SCHNUCH, FREDERICK HU-BERT ..... VENTURA, CA	07/18/2002
SCHOBER, MARY KIM ..... BURLINGTON, VT	07/18/2002
SCHOLZ, LINDA L ..... PAWTUCKET, RI	07/18/2002
SERMCHIEF, CHAIYARAT ..... FREDERICKTOWN, MO	07/18/2002
SISK, KATHLEEN ..... WESTHOPE, ND	07/18/2002
SMARS, GUNNAR ANDERS ... REDLANDS, CA	07/18/2002
SMITH, ROBYN GREER ..... AUSTIN, TX	07/18/2002
SOBH, FADI AHMAD ..... DEARBORN, MI	07/18/2002
SOLOMON, BENJAMIN ..... PEMBROKE PINE, FL	07/18/2002
SPALDING, STACY ..... PEARL, MS	07/18/2002
SPRAGUE, THOMAS B ..... OAKDALE, CA	07/18/2002
STORM, BEVERLY J ..... FLUSHING, MI	07/18/2002
TAVAROZZI, LAURIE ANN ..... WARWICK, RI	07/18/2002
TAYLOR, DONNA M ..... COLUMBUS, OH	07/18/2002
TETERS, TERRY R ..... ELK GROVE VILLAGE, IL	07/18/2002
THACKER, BRANDY KAY ..... ROCKVILLE, IN	07/18/2002
THOMAS, ALESIA LAVERNE ..	07/18/2002

Subject, city, state	Effective date
MOBILE, AL	
UFFMAN, VICCI KENSLEY ..... LEXINGTON, KY	07/18/2002
VAN MEERVELD, BRIDGET ... BELVIDERE, IL	07/18/2002
VIDEAU, WANDA ..... AVONDALE, LA	07/18/2002
VILLANUEVA, LUCITO ..... AMERICAN CANYON, CA	07/18/2002
WALKER, PAMELA ..... LAMBERT, MS	07/18/2002
WALSH, LINDA S ..... MUNCIE, IN	07/18/2002
WASCHER, ARTWEN A ..... LAS VEGAS, NV	07/18/2002
WEBB, LINDA ..... GREENVILLE, MS	07/18/2002
WEBER, ROBERT FRANCIS .. DULUTH, MN	07/18/2002
WELLS, MARILYN ..... PHOENIX, AZ	07/18/2002
WENNER, JEFFREY A ..... PORT HUERERE, CA	07/18/2002
WERTH-MOORE, ADRIEN RAY ..... SAN LEANDRO, CA	07/18/2002
WESLEY, TRACY ..... BEREA, KY	07/18/2002
WESTMORELAND, VICKIE JEAN ..... WELLINGTON, TX	07/18/2002
WHITE, CYNTHIA ..... SHANNON, MS	07/18/2002
WILLIAMS, MELISSA V ..... WATAGA, IL	07/18/2002
WINKEL, CAROL ESTHER ..... MINNEAPOLIS, MN	07/18/2002
WINSTON, JEFF WAYNE ..... PARAGOULD, AR	07/18/2002
WOODARD, LINDA LU ..... WEATHERFORD, TX	07/18/2002
WYNN, JUDY DIANE ..... CLEBURNE, TX	07/18/2002
YOUNG, JOSEPH D ..... SAN LUIS OBISPO, CA	07/18/2002
ZIEMSKI, LINDA LEE ..... DULUTH, MN	07/18/2002
FEDERAL/STATE EXCLUSION/ SUSPENSION	
BENSON, LESLIE K ..... SAN CLEMENTE, CA	07/18/2002
PALMER, LUCKETT M ..... LOS ANGELES, CA	07/18/2002
FRAUD/KICKBACKS	
COOPER, KAREN ..... EAGLE POINT, OR	07/18/2002
KUEBLER, WALTER J ..... BOWLING GREEN, KY	01/01/2002
MCGOVERN, DANA ..... PORT CHARLOTTE, FL	04/16/2002
MCGUIRE, KAY F ..... WARRENTON, OR	01/31/2002
ONETO, CLARENCE M (LARRY) ..... COOKEVILLE, TN	06/15/2002
TERRANOVA, MARK DANTE WARRENTON, OR	07/18/2002
OWNED/CONTROLLED BY CONVICTED ENTITIES	
ALPHA OMEGA HEALTH CARE MGMT ..... COLEMAN, FL	07/18/2002
AUBURNDALE HEALTH CARE INSTITU ..... COLEMAN, FL	07/18/2002
BOWLING GREEN HEALTH CARE CORP ..... COLEMAN, FL	07/18/2002
DOCTOR CENTER MEDICAL MIAMI, FL	07/18/2002
G & G MANAGEMENT, INC .... MIAMI, FL	07/18/2002
GAH CHIROPRACTIC CTR, P C ..... ANAHEIM, CA	07/18/2002
GRAND ACUPRESSURE, CLINIC ..... WALNUT, CA	07/18/2002
HEALTH CLINIC MANAGE-MENT, INC ..... MIAMI, FL	07/18/2002
INFU TRENDS, INC ..... HOLLYWOOD, FL	07/18/2002
IV PHARMACEUTICAL WHOLESALERS ..... HOLLYWOOD, FL	07/18/2002
L G M D INVESTMENT CO, LTD ..... MIAMI, FL	07/18/2002
LA MESA MEDICAL ASSOC, INC ..... LA MESA, CA	07/18/2002
LIBRA MEDICAL, INC ..... BELLE GLADE, FL	07/18/2002
LJ HOME HEALTH SERV-ICES, INC ..... MAPLEWOOD, MN	07/18/2002
M & R EQUIPMENT, INC ..... MIAMI, FL	07/18/2002
M E V ENTERPRISE, INC ..... MIAMI BEACH, FL	07/18/2002
PRIME QUALITY MEDICAL SVCS ..... BELLE GLADE, FL	07/18/2002
S SCOTT LASTER, DDS, INC, P C ..... INOLA, OK	07/18/2002
Z & R SERVICES, INC ..... MIAMI, FL	07/18/2002
DEFAULT ON HEAL LOAN	
ANDERSON, RUSSELL NOEL LAS VEGAS, NV	05/28/2002
BASTECKI, ALLEN R ..... AMES, IA	07/18/2002
SAINT-PHARD, GUERCY ..... TAMPA, FL	06/04/2002
TIMOTHY D LUCEY, LTD ..... NEWBURGH, NY	07/18/2002
VERDELL, CLARENCE R ..... VOORHEES, NJ	05/20/2002

Dated: July 2, 2002.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 02–17250 Filed 7–9–02; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: July 29–30, 2002.

Time: 9 a.m. to 4 p.m.

Agenda: Cancer Issues of the Northwest Tribes.

Place: Cultural Center, Yakama Indian Nation, Yakima, WA.

Contact Person: Maureen O. Wilson, PhD., Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 3A18, Bethesda, MD 20892, 301/496–1148.

Information is also available on the Institute's/Center's home page: deainfo.nci.nih.gov/advisory/pcp/pcp.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17223 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel Jointly Sponsored NIH Predoctoral Training Program in the Neurosciences.

Date: August 8, 2002.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, PhD., Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, 301–451–2020.

Name of Committee: National Eye Institute Special Emphasis Panel NEI Institutional and Professional School Training Grant Applications.

Date: August 8, 2002.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, PhD., Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, 301–451–2020.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17232 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, ''NEI Clinical Research Review Committee''.

Date: July 31, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Samuel Rawlings, PHD, Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, 301–451–2020.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17233 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Innovative Partnerships in Type 1 Diabetes Research.

Date: August 4–5, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: to review and evaluate grant applications.

Place: Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.

Contact Person: Michael W. Edwards, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 751, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–8886.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Small Clinical Research Grants in Digestive Diseases and Nutrition.

Date: August 9, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.

Contact Person: Carolyn Miles, PhD., Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 27, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17221 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Mentored Clinical Investigator Applications Review.

Date: July 24, 2002.

Time: 3 p.m to 4:30 p.m.

Agenda: to review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Boulevard, Room 754, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Environmental Approaches to the Prevention of Obesity.

Date: August 27–28, 2002.

Time: 8 a.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Linthicum, MD 21090.

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 749, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 27, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17222 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Anesthesiology Special Emphasis Panel.

Date: August 5–6, 2002.

Time: 8 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel Mayfair, 2303 North Mayfair Road, Milwaukee, WI 53226

Contact Person: Laura K. Moen, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13H, Bethesda, MD 20892, 301–594–3998, moenl@nigms.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17224 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, ZGM1 GBD–6 (01) Review of Program Project.

Date: August 6, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Room 1AS13, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carole H. Latker, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–2848.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17225 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Environmental Justice: Partnerships to Address Ethical Challenges in Environmental Health (RFA ES–02–005).

Date: July 31–August 2, 2002.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hawthorn Suites Hotel, 300 Meredith Drive, Durham, NC 27713.

Contact Person: Leroy Worth, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 919/541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17226 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, National Criminal Justice Drug Treatment Services Research System–A.

Date: July 31–August 1, 2002.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes on Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547 Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, National Criminal Justice Drug Treatment Services Research System–B.

Date: August 1, 2002.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes on Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547 Bethesda, MD 20892–9547, (301) 435–1389.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17227 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–86, Review of R13 Grants.

Date: July 26, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–88, Review of R44 Grants.

Date: July 29, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–82, Review of R13

Date: August 15, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–81, Review of R13 Grants.

Date: August 20, 2002.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–85, Review of R44 Grants.

Date: August 22, 2002.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17228 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Small Grants (R03).

Date: July 29–30, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Bldg./Bldg. 45, MSC 6500/Room 5AS–37B, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institute of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17229 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel. Contract–RFP–NIH–NIAMS–BAA–02–05 Pilot and Feasibility Trials for Osteoporosis.

Date: July 10, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institute of Arthritis and, Musculoskeletal and Skin Diseases, Natcher Building, MSC 6500, 45 Center Drive, 5AS–25H, Bethesda, MD 20892, (301) 594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institute of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17230 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, ''Early Childhood Education and School Readiness Planning, Grants''.

Date: August 1–2, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17231 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ALY (01).
Date: July 24, 2002.
Time: 11:30 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, F05 F31 Fellowships.
Date: July 25–26, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel & Suites, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Randolph Addison, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025, *addisonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–D (11).
Date: July 25–26, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, 301–435–0676, *siroccok@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MEDB (03).
Date: July 25, 2002.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Alec S. Liacouras, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892. (301) 435–1740.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SNEM–1 (04) Ethical Issues in Human Studies.
Date: July 25, 2002.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ellen, K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892. (301) 435–0681. *schwarte@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 EI (02).
Date: July 25, 2002.
Time: 2 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. (301) 435–3566. *cooperc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SRB (05).
Date: July 25–26, 2002.
Time: 7 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Eileen W Bradley, DSC, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892. (301) 435–1179. *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GRM (07) OBM2 Study Section Conflicts.
Date: July 26, 2002.
Time: 7:30 a.m. to 8:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892. (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BBCB (1) Chemistry/Biophysics Program Project Panel.
Date: July 26, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892. (301) 435–1153.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG 1 SNEM 2 (03) S—Ethics.
Date: July 26, 2002.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Yvette M. Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892. 301–435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MDCN–3 (01) Neuro-PPG.
Date: July 26, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892. (301) 435–1265.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–IFCN–5–04: Member Conflict Panel: Career Development Awards.
Date: July 29, 2002.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ALY (02).
Date: July 29, 2002.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152. *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–7(10) Neurosciences—SBIR/STTR.
Date: July 30, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CVA (02) BRP: Cardiac Ischemia.
Date: July 30, 2002.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS 1 (02) S: Special Topics: Radioimmunotherapy.

Date: July 30, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Shen K. Yang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892. (301) 435–1213. *yangsh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ONC (01).

Date: July 30, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892. (301) 435–1211.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 FO8 (01).

Date: July 30, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mary P. McCormick, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1047. *mccormim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GRM (03) SMB Study Section Conflicts.

Date: July 30, 2002.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892. (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BBBP–5 Member Reviews in Depression and Suicidality.

Date: July 30, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. 3014350902. *krausem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–IFCN–5–01: Member Conflict Panel: Pain.

Date: July 31, 2002.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, NSC 7844, Bethesda, MD 20892. (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN1 (5): Member Conflict: Olfactory/Chemosensory Neurobiology.

Date: July 31, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Gamil C Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892. (301) 435–1247. *eskayr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17234 Filed 7–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–05]

Notice of Proposed Information Collection: Comment Request; Request for Release of Documents: ACH Debit Authorization; Master Agreements for Servicer's P&I Custodial Account; and Servicer's Escrow Account and Custodial Account

AGENCY: Office of President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* September 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451–7th Street, SW., Room 6206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submitted submission of responses.

This Notice also lists the following information:

Title of Proposal: (1) Request for Release of Documents; (2) ACH Debit Authorization; (3) Master Agreements for Servicer's P&I Custodial Account; and (4) Servicer's Escrow Account and Custodial Account.

OMB Control Number, if applicable: 2503–0017.

Description of the Need for the Information and Proposed Use

Form 11708 provides issuers access to the documents held by the document custodian. Forms 11709 and 11720 provide evidence to Ginnie Mae that the issuer has executed an agreement with

a financial institution to maintain the principal, interest, and escrow funds used to pay securities holders. Form 11709–A authorizes Ginnie Mae's Central Paying and Transfer Agent (CPTA) and the Ginnie Mae Depository to make Automated Clearing House (ACH) debits against an issuer's central principal and interest account at the bank referenced on the form. The CPTA is authorized to initiate ACH debits against the issuer's central principal and interest custodial account at the bank referenced on the form for monthly guaranty fees due in connection with all Ginnie Mae I pools and loan packages, and for monthly P&I payment and guaranty fees due in connection with all Ginnie Mae II pools and loan packages. The Ginnie Mae Depository is authorized to initiate ACH debits against the central P&I custodial account at the bank referenced on the form for monthly P&I payments and prepayment penalties on multifamily loans due in connection with all book-entry securities backed by Ginnie Mae I pools. Form 11715 provides the name of the document custodian institution holding the issuer's documents on behalf of Ginnie Mae.

Agency form numbers, if applicable: HUD Form 11708, 11709, 11709–A, 11715, and 11720.

Members of affected public: For-profit business (mortgage companies, thrifts, savings & loans, etc.).

Estimation of the Total Number of Hours Needed To Prepare the Information Collection, Including Number of Respondents, Frequency of Response, and Hours of Response

Estimates of the hour burden of collecting information for the forms area as follows:

HUD forms	Number of respondents	Frequency of responses	Total of responses	Hrs. per response	Total hours
17708	2,966.47	1	2,966.47	.2	593.29
11709	297	1	297	.03	8.91
11709–A	297	1	297	.25	74.25
11715	297	1	297	.25	74.25
11720	297	1	297	.2	59.4
Annual Total	4,154.47	5	4,154.47	.93	810.10

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 27, 2002.

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–17219 Filed 7–9–02; 8:45 am]

BILLING CODE 4210–66–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4456–N–20]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a Computer Matching Program—HUD and the Small Business Administration (SBA).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a recurring computer matching program with the SBA to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with SBA's debtor files. In addition to HUD's data, the CAIVRS database includes delinquent debt information from the Departments of Education, Veterans Affairs, Justice and the United States Department of Agriculture. This match will allow prescreening of applicants for debts owed or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or SBA direct or guaranteed loans.

Before rating a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records of the SBA and verify that the loan applicant is not in default or delinquent on direct or guaranteed loans of participating Federal programs of either agency. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

DATES: *Effective Date:* Computer matching is expected to begin 30 days after publication of this notice in the **Federal Register** unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

Comments Due Date: August 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

For Privacy Act Information and for Further Information from Recipient Agency Contact: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room P8001, Washington, DC 20410, telephone number (202) 708–2374 or FAX (202) 708–3135. [These are not toll-free numbers.]

For Further Information from Source Agency Contact: Walter Intlekfer, Deputy Director, Small Business Administration, 409 Third Street, SW., Suite 8300, Washington, DC 20416, telephone number (202) 205–7543. [This is not a toll-free number.]

Reporting of Matching Program: In accordance with Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;'' copies of this Notice and report are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority: The matching program will be conducted pursuant to Pub. L. 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circular A–129 (Revised January 1993), Policies for Federal Credit Programs and Non-Tax Receivables. One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met By the Matching Program: The matching program will allow SBA access to a system which permits prescreening of applicants for loans owed or guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to SBA debtor data for prescreening purposes.

Records To Be Matched: HUD will utilize its system of records entitled HUD/DEPT–2, *Accounting Records.* The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have defaulted on Section 312 rehabilitation loans; or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRS match, HUD/DEPT–2, System of Records, receives its program inputs from HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans-Delinquent/Default. The SBA will provide HUD with debtor files contained in its system of records entitled, Loan Case File, SBA 075. HUD is maintaining SBA's records only as a ministerial action on behalf of SBA, not as a part of HUD's HUD/DEPT–2 system of records. SBA's data contain information on individuals who have defaulted on their guaranteed loans. The SBA will retain ownership and responsibility for their system of records that they place with HUD. HUD serves only as a record location and routine use recipient for SBA's data.

Notice Procedures: HUD and the SBA will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and the SBA will also publish notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

Categories of Records/Individuals Involved: The debtor records include these data elements: SSN, claim number, program code, and indication of indebtedness. Categories of records include: records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: Former mortgagors and purchasers of HUD-owned properties, manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match: Matching is expected to begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreements are sent to both Houses of Congress or at least 30 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other in writing to terminate or modify the agreement.

Dated: July 3, 2002.

Karen S. Jackson,

General Deputy Chief Information Officer.

[FR Doc. 02–17218 Filed 7–9–02; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Programmatic Safe Harbor Agreement for the Hawaiian Goose on the Island of Molokai, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit application includes a programmatic Safe Harbor Agreement (programmatic Agreement) between DOFAW and the Service. The programmatic Agreement and permit application are available for public comment.

The proposed programmatic Agreement allows for the protection of habitat for the endangered Hawaiian goose or nene (*Branta sandvicensis*) that may occupy or breed on private lands following the reintroduction of nene to Molokai in 2001 through the previously approved ''Safe Harbor Agreement for the Reintroduction of the Nene to Puu O Hoku Ranch, Island of Molokai.'' The proposed programmatic Agreement allows individual landowners to enroll in the program through a Certificate of Inclusion and Cooperative Agreement. The proposed duration of the Programmatic Agreement is 30 years; the proposed duration of the permit is 50 years.

The proposed permit would allow enrolled landowners to return to baseline conditions established in the Cooperative Agreement. We expect this Programmatic Agreement to result in a net conservation benefit by aiding and supporting the restoration of nene to the Island of Molokai.

The Service has made a preliminary determination that the proposed Programmatic Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969. We explain the basis for this determination in an Environmental Action Statement,

which also is available for public review.

We request comments from the public on the permit application, Agreement, and Environmental Action Statement. All comments we receive, including names and addresses, will become part of the administrative record and may be released to the public.

DATES: Written comments should be received on or before August 9, 2002.

ADDRESSES: Comments should be addressed to Mr. Paul Henson, Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 50088, Honolulu, Hawaii 96850; facsimile 808–541–3470.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Shultz at the above address or telephone 808–541–3441.

SUPPLEMENTARY INFORMATION:

Document Availability

You may obtain copies of the documents for review by contacting the office named above. You also may make an appointment to view the documents at the above address during normal business hours.

Background

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with DOFAW to develop a programmatic Safe Harbor Agreement for the protection of habitat for the endangered Hawaiian goose or nene on the Island of Molokai, Hawaii. Under this Agreement, individual landowners enrolled in the program and/or DOFAW will: (1) Report the presence or absence of nene on their lands to DOFAW; (2) allow access to covered lands for management and monitoring of nene; (3) implement a program to control predators; (4) agree not to disturb nene nests until after the birds have hatched their eggs; (5) assist DOFAW with preparation of their annual report; and (6) identify other management actions in the Cooperative Agreement.

We anticipate that this Programmatic Agreement will result in the following benefits: (1) Increased probability that nene will expand their range onto lands outside of Puu O Hoku Ranch; (2) increased number of nene in the wild (anticipated up to 125 individuals on enrolled properties); (3) increased ability to monitor distribution, abundance, and reproductive success of Molokai's nene population; and (4) increased predator control in areas utilized by nene will address a key threat to nene.

Consistent with Safe Harbor policy, we propose to issue a permit to DOFAW authorizing them to enroll landowners (Cooperators) with Certificates of Inclusion under the Federal permit and State permit when Cooperators sign individual Cooperative Agreements that describe actions that will be taken to benefit nene. Thus, the Cooperators will be authorized for incidental take of nene and their progeny, which occur on the enrolled lands, as a result of lawful activities on enrolled lands, as long as baseline conditions are maintained and terms of the Cooperative Agreement are implemented. These activities may include, but are not limited to: (1) Driving vehicles; (2) building or fence construction; (3) grazing of livestock; (4) gardening; (5) forestry; (6) hunting; (7) farming; (8) mowing; and (9) cultivation of agricultural crops. We expect that the maximum level of incidental take authorized under this programmatic Agreement will never be realized. We anticipate that any nene taken when the proposed Programmatic Agreement expires will not be injured or harmed, but will be relocated, with permission from landowners, to other suitable lands. Therefore, the cumulative impact of this Programmatic Agreement and the activities it covers, which are facilitated by the allowable incidental take, will provide a net conservation benefit to nene.

We provide this notice pursuant to section 10(c) of the Endangered Species Act and pursuant to implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations. If we determine that the requirements are met, we will sign the programmatic Safe Harbor Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to DOFAW for take of nene incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: June 19, 2002.

Rowan W. Gould,

Deputy Regional Director, Region 1.

[FR Doc. 02–17298 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Assessment Plan for the Natural Resource Damage Assessment at the St. Louis River Interlake/Duluth Tar Superfund Site

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of 30 day comment period.

SUMMARY: Notice is given that the document titled ''Assessment Plan for the Natural Resource Damage Assessment at the St. Louis River Interlake/Duluth Tar Superfund Site, Draft 6/24/02'' (''the Plan'') will be available for public review and comment on the date of publication in the Federal Register. The U.S. Departments of the Interior (Fish and Wildlife Service, Bureau of Indian Affairs) and Commerce (National Oceanic and Atmospheric Administration), the State of Minnesota (Minnesota Department of Natural Resources, Minnesota Pollution Control Agency), the Fond du Lac Band of Lake Superior Chippewa, and the 1854 Authority (representing the Bois Forte Band and Grand Portage Band of Lake Superior Chippewa) are trustees for natural resources (''trustees'') considered in this assessment, pursuant to subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600 and 300.610, and Executive Order 12580.

The trustees are following the guidance of the Natural Resource Damage Assessment Regulations found at 43 CFR part 11. The public review of the Plan announced by this Notice is provided for in 43 CFR 11.32(c).

Interested members of the public are invited to review and comment on the Plan. Copies of the Plan can be requested from the address listed below. All written comments will be considered by the trustees and included

in the Report of Assessment at the conclusion of the assessment process.

DATES: Written comments on the Plan must be submitted within 30 days of the date of this Notice.

ADDRESSES: Comments on the Plan should be sent to: Marilyn Danks, Trustee Coordinator, Minnesota Department of Natural Resources, Division of Ecological Services, 500 Lafayette Road, St. Paul, MN 55155–4025.

Requests for copies of the Plan may be made to the Trustee Coordinator at the address listed above. The Trustee Coordinator will provide copies of all comments to all trustees.

You may also submit requests for copies of the Plan, and comments on the Plan, by sending electronic mail (e-mail) to: *marilyn.danks@dnr.state.mn.us* See **SUPPLEMENTARY INFORMATION** for information about electronic mailing and access.

FOR FURTHER INFORMATION CONTACT:

Case Management and Logistical Information: Dave Warburton, 612–725–3548 (x203).

Technical Information: Annette Trowbridge, 612–725–3548 (x202).

SUPPLEMENTARY INFORMATION: The trustees are undertaking an assessment of damages resulting from suspected injuries to natural resources in and near the Lower St. Louis River that have been exposed to hazardous substances released by industrial activity at the St. Louis River Interlake/Duluth Tar Superfund Site. The trustees suspect this exposure has caused injury and resultant damages to trustee resources. The injury and resultant damages will be assessed under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and the Clean Water Act, as amended, in order to determine the appropriate type and extent of resource restoration. The Plan addresses the trustees' overall assessment approach, and utilizes both existing data as well as additional data to be collected as described in study in workplans attached to the Plan. Plan addenda may be prepared by the trustees to provide public notice of additional data collection activities. Restoration of natural resources will be proposed by the trustees following the assessment.

You may submit comments on the Plan by sending electronic mail (e-mail) to: *marily.danks@dnr.state.mn.us.* Do not use any special characters or forms of encryption in your e-mail. The trustees also accept comments in WordPerfect and Word versions as attachments to the e-mail or on disk. You may also request copies of the Plan by sending e-mail to the above address.

Dated: July 1, 2002.

Marvin E. Moriarty,

Regional Director, Region 3, U.S. Fish and Wildlife Service.

[FR Doc. 02–17251 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–01–134–1610–241A]

Notice of Colorado Canyons National Conservation Area Advisory Council Meeting Venue Change

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Advisory Council meeting change.

SUMMARY: Beginning on August 8, 2002 the Colorado Canyons National Conservation Area (CCNCA) Advisory Council will change the venue for its monthly meetings. For the remainder of calendar year 2002, the CCNCA Advisory Council will meet at the Mesa County Courthouse, in the Mesa County Multipurpose Room, 544 Rood Avenue, Grand Junction, Colorado. All meetings begin at 3:00 p.m.

DATES: The meetings are held on the second Thursday of each month throughout calendar year 2002. The change of venue will occur on August 8, 2002.

ADDRESSES: For further information or to provide written comments, please contact Greg Gnesios, Bureau of Land Management (BLM), 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3049; e-mail Gregory_Gnesios@co.blm.gov.

SUPPLEMENTARY INFORMATION: The CCNCA Advisory Council will meet on August 8, September 13, October 10, November 14 and December 12, 2002 in the Mesa County Courthouse Multipurpose room, 544 Rood Avenue, Grand Junction, CO. All meetings begin at 3 p.m.. Previous meetings this year were held at White Hall, 300 N. 6th Street, Grand Junction, Colorado.

All meetings will be open to the public and will include a time set aside for public comment. Interested persons may make oral statements at the meetings or submit written statements at any meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of all Council meetings will be maintained at the Bureau of Land Management Office in Grand Junction, Colorado. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. In addition, minutes and other information concerning the CCNCA Advisory Council, can be obtained from the CCNCA website at: *http://www.co.blm.gov/cocanplan/* which will be updated following each Advisory Council meeting.

Dated: June 18, 2002.

Greg Gnesios,

Colorado Canyons National Conservation Area Manager.

[FR Doc. 02–17346 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–01–134–1610–241A]

Colorado Canyons National Conservation Area Advisory Council Field Trips

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Colorado Canyons National Conservation Area Advisory Council field trips.

SUMMARY: The Colorado Canyons National Conservation Area (CCNCA) Advisory Council will conduct field trips into the CCNCA on July 23 and 26; August 3, 17 and 31; and September 7 and 21, 2002. All participants will meet at the BLM Office located at 2815 H Road, Grand Junction, Colorado at 8 a.m. except on August 3, 2002, when participants will meet at the BLM Office at 7:30 a.m.

DATES: The trips will be conducted on July 23 and July 26; August 3, 17, and 31; and September 7 and 21, 2002.

ADDRESSES: For further information or to provide written comments, please contact Greg Gnesios, Bureau of Land Management (BLM), 2815 H Road, Grand Junction, Colorado 81506; telephone (970) 244–3049 or e-mail *Gregory_Gnesios@co.blm.gov.*

SUPPLEMENTARY INFORMATION: The CCNCA Advisory Council will accompany field personnel from the Grand Junction Bureau of Land Management Office on informational trips into the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness. The trips will allow Advisory Council members to familiarize themselves with the CCNCA, analyze relevant issues, and cross-feed information on concerns

identified to date through public scoping, working groups, and Advisory Council meetings.

On Friday July 26, 2002, all participants will meet at the BLM Office located at 2815 H Road, Grand Junction, Colorado 81501, before 8 a.m. Departure from the BLM office will be at 8 a.m. The groups will tour the Wilderness Front Country, Rabbit Valley, and Mack Ridge areas of the CCNCA.

On Saturday, August 3, 2002, all participants will meet at the BLM Office located at 2815 H Road, Grand Junction, Colorado 81501, before 7:30 a.m. Groups will depart from the BLM office at 7:30 a.m. and will tour the Colorado River Corridor, starting at the Loma Boat Launch and ending in Westwater, Utah.

On Saturday, August 17, 2002, all participants will meet at the BLM Office located at 2815 H Road, Grand Junction, Colorado 81501, before 8 a.m. Groups will depart from the BLM office at 8 a.m. The groups will tour the Glade Park area and the Wilderness.

The remaining dates of July 23, August 31 and September 7 and 21, 2002, will be used to address other issues as appropriate. All participants will meet at the BLM Office located at 2815 H Road, Grand Junction, Colorado 81501, before 8 a.m. Groups will depart from the BLM office at 8 a.m.

Topics of discussion on all trips will include travel management, recreation, land health assessments, use authorizations, natural resource management, wilderness stewardship, education, cultural resources, wildlife, partnerships, interpretation, adaptive management, and socioeconomics. All tours will be open to the public. For information on the field trips contact Jane Ross at (970) 244–3027, 2815 H Road, Grand Junction, Colorado 81506, or e-mail to *Jane__Ross@blm.gov.*

Dated: June 5, 2002.

Gene S. Arnesen,

Acting Colorado Canyons National Conservation Area Manager.

[FR Doc. 02–17347 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1610–PG; G–02–0223]

Location Change for Steens Mountain Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Change of meeting location for the Steens Mountain Advisory Council.

SUMMARY: The October 21 and 22, 2002, Steens Mountain Advisory Council (SMAC) meeting, previously scheduled to be held at the Bureau of Land Management (BLM), Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, has been moved to the Holiday Inn Express, 20615 Grandview Drive, Bend, Oregon 97701. The original **Federal Register** notice announcing the meeting was published on December 5, 2001, page number 63249. The meeting session will begin the first day at 8 a.m., local time, and will end at 5 p.m., local time. The second day will begin at 8 a.m., local time, and will end at approximately 3 p.m., local time. The entire meeting is open to the public. Public comment is scheduled for 11 a.m. to 11:30 a.m., local time, both days of the meeting session.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SMAC may be obtained from Rhonda Karges, Management Support Specialist, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, (541) 573–4433, or *Rhonda_Karges@or.blm.gov* or from the following web site *http://www.or.blm.gov/Steens.*

Dated: May 7, 2002.

Miles R. Brown,

Andrews Resource Area Field Manager.

[FR Doc. 02–17342 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01; NMNM 103876]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 103876 for lands in Eddy County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from March 1, 2002, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice. The Lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective March 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

For further information contact: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: June 6, 2002.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 02–17337 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01); (NMNM 102038)]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 102038 for lands in Eddy County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from March 1, 2002, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective March 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: June 6, 2002.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 02–17338 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01; TXNM 100505]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease TXNM 100505 for lands in Kleberg County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from March 1, 2002, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16 2/3 percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective March 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: May 30, 2002.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 02–17339 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–02–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on April 19, 2001:

The plat, representing the dependent resurvey of a portion of the south boundary of Township 24 North, Range 49 East; and the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 1, Township 23 ½ North, Range 49 East, Mount Diablo Meridian, Nevada, under Group No. 778, was accepted April 17, 2001.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Supplemental Plats of the following described lands were officially filed at the Nevada State Office, Reno, Nevada on August 2, 2001:

The supplemental plat, showing amended lottings in sec. 23, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 24, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 26, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 27, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 28, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 30, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 31, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 32, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

The supplemental plat, showing amended lottings in sec. 33, Township 13 South, Range 70 East, Mount Diablo Meridian, Nevada, was accepted July 31, 2001.

These plats were prepared to meet certain administrative needs of the Bureau of Land Management and the City of Mesquite, Nevada.

3. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on September 27, 2001:

The plat, in three (3) sheets, representing the dependent resurvey of a portion of the south boundary (First Standard Parallel South), the east, west, and north boundaries and a portion of the subdivisional lines, and the subdivision of certain sections, Township 4 South, Range 66 East, Mount Diablo Meridian, Nevada, was accepted September 25, 2001.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Supplemental Plats of the following described lands were officially filed at the Nevada State Office, Reno, Nevada on October 4, 2001:

The supplemental plat, showing the subdivision of lot 13, section 16, Township 19 South, Range 61 East, Mount Diablo Meridian, Nevada, was accepted October 2, 2001.

The supplemental plat, showing the subdivision of lot 18, section 18, Township 19 South, Range 62 East, Mount Diablo Meridian, Nevada, was accepted October 2, 2001.

These plats were prepared to meet certain administrative needs of the Bureau of Land Management.

5. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on October 4, 2001:

The plat, representing the dependent resurvey a portion of the north boundary, a portion of the subdivisional lines and Mineral Survey No. 2114, and the subdivision of sections 5, 7 and 8, Township 4 South, Range 67 East, Mount Diablo Meridian, Nevada, was accepted October 2, 2001.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

6. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on November 29, 2001:

The supplemental plat, showing amended lottings in the NE1/4NE1/4 sec. 6, Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada, was accepted November 27, 2001.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

7. The Plat of Survey of the following described lands were officially filed at

the Nevada State Office, Reno, Nevada on December 20, 2001:

The plat, representing the dependent resurvey of a portion of the south boundary, a portion of the west boundary and a portion of the subdivisional lines, and the subdivision of section 31, Township 18 North, Range 39 East, Mount Diablo Meridian, Nevada, was accepted December 18, 2001.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

8. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: February 6, 2002.

David J. Clark,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 02–17343 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–02–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION: 1. The Plats of Survey of the following described lands were officially filed at the Nevada State Office, Reno, Nevada on June 13, 2002:

The plat, in three (3) sheets, representing the corrective dependent resurvey and dependent resurvey of a portion of the south boundary, the corrective dependent resurvey and dependent resurvey of a portion the subdivisional lines, the dependent resurvey of a portion of section 34, the further subdivision of section 34, the metes-and-bounds survey of Tracts 37, 38, 39, and 40, and the metes-and-bounds survey of Lot 7 in section 34, Township 19 North, Range 20 East, Mount Diablo Meridian, Nevada, under Group No. 741, was accepted June 11, 2002.

The plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the subdivision of section 25, and a metes-and-bounds survey in section 25, Township 12 North, Range 20 East, Mount Diablo Meridian, Nevada, under Group No. 801, was accepted June 11, 2002.

Theses surveys were executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on the first business day after thirty (30) days from the publication of this notice: The plat representing the survey of the south boundary, a portion of the west boundary and a portion of the subdivisional lines of Township 15 North, Range 33 East, Mount Diablo Meridian, Nevada, under Group No. 793, was accepted June 18, 2002.

The plat representing the survey of a portion of the south boundary and a portion of the subdivisional lines, and the subdivision of section 32, Township 15 North, Range 34 East, Mount Diablo Meridian, Nevada, under Group No. 793, was accepted June 18, 2002.

The plat, in four (4) sheets, representing the dependent resurvey of portions of Mineral Survey Nos. 3630, 3927 and 4184, the survey of a portion of the subdivisional lines and the subdivision of certain sections, Township 16 North, Range 34 East, Mount Diablo Meridian, Nevada, under Group No. 793, was accepted June 18, 2002.

These surveys were executed to meet certain administrative needs of the Department of the Navy.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, these lands are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to official filing of the Plats of Survey described in paragraph 2, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: June 20, 2002.

Robert M. Scruggs,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 02–17345 Filed 7–9–02; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–429 and 731–TA–1011 (Preliminary)]

Certain Cooked, Peeled, and Individually Quick Frozen Coldwater Pink Shrimp From Canada

AGENCY: United States International Trade Commission.

ACTION: Notice of withdrawal of petition in countervailing duty and antidumping investigations.

SUMMARY: On July 1, 2002, the Department of Commerce and the Commission received a letter from petitioners in the subject investigations (the Oregon Trawl Commission, Astoria, OR; the Shrimp Producers Marketing Cooperative, Newport, OR; the Fishermen's Marketing Association, Eureka, CA; the Coos Bay Trawlers Association, Coos Bay, OR; and Bay Ocean Seafood Co., Garibaldi, OR) withdrawing the petition. Commerce has not initiated investigations as provided for in sections 702(c) and 732(c) of the Tariff Act of 1930 (19 U.S.C. § 1671a(c) and 1673a(c)). Accordingly, the Commission gives notice that its countervailing duty and antidumping investigations concerning certain cooked, peeled, and individually quick frozen coldwater pink shrimp from Canada (investigations Nos. 701–TA–429 and 731–TA–1011 (Preliminary)) are discontinued.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

Issued: July 3, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–17335 Filed 7–9–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 303–TA–23, 731–TA–566–570, and 731–TA–641 (Final) (Reconsideration) (Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice of scheduling of additional procedures in remand proceedings.

SUMMARY: On April 11, 2002, the Commission issued a notice of scheduling of the court-ordered remand of its reconsideration proceedings pertaining to countervailing duty investigation No. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping investigations Nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela (67 FR 18663 (April 16, 2002)). That notice specified the procedures the Commission would follow in the remand proceedings. The notice indicated the scheduling of some procedures would be announced at a later date. This notice provides a schedule of those remaining procedures.

EFFECTIVE DATE: July 2, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

In its previous notice, the Commission provided scheduling information through the filing of the posthearing brief. Additional scheduling information for the remand proceedings is provided below.

Staff Report

The staff report in the remand proceedings will be placed in the nonpublic record on July 22, 2002, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's Rules of Practice and Procedure.

Written Submissions

On July 25, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 30, 2002, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

By order of the Commission.

Issued: July 5, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–17340 Filed 7–9–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–SE–02–019]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 17, 2002 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–744 (Review) (Brake Rotors from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before July 29, 2002.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 8, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–17485 Filed 7–8–02; 3:22 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services (COPS)

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: new; mental health and community safety initiative equipment and training progress report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 31, page 6944 on February 14, 2002, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 9, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of Form/Collection:* Mental Health and Community Safety Initiative Equipment and Training Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. U.S. Department of Justice, Office of Community Oriented Policing Services (COPS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federally Recognized Tribal governments. *Other:* None. Abstract: The information collected will be used by the COPS Office to determine grantee's progress toward grant implementation and for compliance monitoring efforts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 10 responses. The estimated amount of time required for the average respondent to respond is: 2.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 35 hours.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: July 2, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–17289 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services (COPS)

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day Notice of Information Collection Under Review; New; COPS in School/Safe Schools Healthy Students Annual Report

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 25, page 5614 on February 6, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 9, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* COPS in Schools/Safe Schools Healthy Students Annual Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. U.S. Department of Justice, Office of Community Oriented Policing Services (COPS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Awardees of the COPS in Schools/Safe Schools Healthy Students Grant Programs. *Other:* None. *Abstract:* COPS in Schools/Safe Schools Healthy Students Annual Report is a survey instrument that the COPS Office uses to monitor the community policing

activities of the COPS in Schools hiring grant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated number of agencies that are eligible to receive and complete the COPS in Schools/Safe Schools Healthy Students Annual Report is 2,800. The estimated amount of time required for the average respondent to complete and return the form is 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The hours associated with this information collection is 1,400 hours.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: July 2, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–17290 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Betteroads Asphalt Corporation,* No. 02–1548(DRD), was lodged with the United States District Court for the District of Puerto Rico on April 9, 2002. This proposed Consent Decree concerns a complaint filed by the United States against Betteroads Asphalt Corporation (''Defendant'') under the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendant for the unauthorized discharge of pollutants into waters of the United States on the Rio Grande de Añasco, at the Municipality of Añasco, Puerto Rico

The proposed Consent Decree, among other things, (1) enjoins the Defendant from taking any actions that would discharge dredged or fill material into waters of the United States except in compliance with the provisions of the Clean Water Act and its implementing regulations, (2) requires the Defendant to pay civil penalties in the amount of $100,000.00; and (3) requires the Defendant to make an additional donation of $75,000.00 to the Fundacion para la Conservacion de la Paloma Sabanera, Inc. (Foundation for the Conservation of the Sabanera Pigeon).

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Angeline Purdy, Trial Attorney, Environmental Defense Section, U.S. Department of Justice, P.O. Box 23986, Washington, DC 20026–3986. All comments must refer to *United States* v. *Betteroads Asphalt Corporation,* Department of Justice Reference No. 90–5–1–4–16212.

The proposed Consent Decree is on file at the Clerk's Office, United States District Court for the District of Puerto Rico at Frederico Degetau Federal Building, 150 Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918, and may be examined there to the extent allowed by the rules of the Clerk's Office. In addition, the proposed Consent Decree may be viewed on the World Wide Web at *http://www.usdoj.gov/.enrd/open.html.*

Mary F. Edgar,

Assistant Chief, Environmental Defense Section, Environmental & Natural Resources Division.

[FR Doc. 02–17362 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *Madonna* v. *United States Army Corps of Engineers,* United States District Court for the Central District of California, CV 01–07515 and *United States* v. *Madonna,* United States District Court for the Central District of California, CV 02–00092, was lodged with the United States District Court for the Central District of California on June 27, 2002. This proposed Consent Decree concerns a compliant filed by Alex Madonna, dba Madonna Construction Co., against the United States Army Corps of Engineers, pursuant to the Clean Water Act and the Administrative Procedure Act to obtain injunctive relief from the Corps for failing to comply with applicable procedures for suspending and revoking Plaintiff's Clean Water Act permit. The proposed Consent Decree also concerns a complaint filed by the United States against Alex Madonna, dba Madonna Construction Co., pursuant to section 404 of the Clean Water Act to obtain injunctive relief and impose civil penalties against Madonna for unlawfully discharging dredged or fill material into waters of the United States.

The proposed Consent Decree prohibits Madonna from discharging any pollutant into waters of the United States on or adjacent to the Froom Ranch and Boysen Ranch Sites in San Luis Obisqo, unless such discharge complies with the provisions of the CWA and its implementing regulations. The proposed Consent Decree requires the creation of 10.2 acres of wetlands and the payment of $15,000 in civil penalties.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Pamela S. Tonglao, Trial Attorney, United States Department of Justice, Environmental and Natural Resources Division, P.O. Box 23986, Washington DC 20026–3986, and refer to *Madonna* v. *Corps.* DJ# 90–5–1–4–16481.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Central District of California, 312 North Spring Street, Los Angles, California 90012. In addition, the proposed Consent Decree my be viewed on the World Wide Web at *http://www.usdoj.gov/enrd/enrd-home.heml.*

Stephen Samuels,

Assistant Section Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 02–17363 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 15, 2002, Ansys Technologies, Inc., 25200 Commercentre Drive, Lake Forest, California 92630, made application by renewal to the Drug Enforcement Administration (DEA) for registration as

a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexane-carbonitrile (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances 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 September 9, 2002.

Dated: June 18, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17206 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 25, 2001, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture tetrahydrocannabinols for sale to their customers.

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 September 9, 2002.

Dated: June 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17208 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 27, 2002, and published in the **Federal Register** on April 10, 2002, (67 FR 17468), Cody Laboratories, Inc., 331 33rd Street, Cody, Wyoming 82414, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Hydromorphone (9150)	II
Fentanyl (9801)	II

The firms plans to bulk manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Cody Laboratories to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Cody Laboratories to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17212 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 2, 2001, and published in the **Federal Register** on October 11, 2001, (66 FR 51970), Noramco Inc., 1400 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Fentanyl (9801)	II

The firm plans to support its other manufacturing facility with manufacturing and analytical testing.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Noramco, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Noramco, Inc. on a regular basis to ensure that the company's registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17213 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 5, 2002, Roche Diagnostics Corporation, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Alphamethadol (9605)	I
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

Roche Diagnostics Corporation plans to manufacture small quantities of the above listed controlled substances for incorporation in drug of abuse detection kits.

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 September 9, 2002.

Dated: June 18, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17207 Filed 7–10–02; 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 § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 5, 2002, Roche Diagnostics Corporation, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Alphamethadol (9605)	I
Cocaine (9041)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import the listed controlled substances to manufacture diagnostic products for distribution to its customers.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance 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 (30 days from publication).

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 a basic class of any controlled substance 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: June 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17210 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 11, 2002, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances 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 (60 days from publication).

Dated: June 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–17209 Filed 7–9–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 1, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, 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: Revision of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: FECA Medical Report Forms, Claim for Compensation.

OMB Number: 1215–0103.

Affected Public: Business or other for-profit; Individuals or households; and Federal Government.

Frequency: As Needed.

Number of Respondents: 286,010.

Number of Annual Responses: 286,010.

Estimated Response Times and Total Burden Hours:

Form No.	Number of respondents	Average minutes per response	Total burden hours
CA–7	400	13	87
CA–16B	130,000	5	10,833
CA–17B	60,000	5	5,000
CA–20	65,000	5	5,417
CA–1090	200	10	33
CA–1303	2,000	20	6667
CA–1305	10	20	3
CA–1331	200	5	17
CA–1332	200	30	100
QCM Letters	1,000	5	83
OWCP–5A	7,000	15	1,750
OWCP–5B	5,000	15	1,250
OWCP–5C	15,000	15	3,750
Burden Totals	286,010	163	28,990

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $105,824.00.

Description: The Office of Workers' Compensation Programs administers the Federal Employees' Compensation Act (5 U.S.C. 8101, *et seq*). The statute provides for continuation of benefits for wage loss and/or for permanent impairment to a scheduled member, arising out of a work related injury or disease. The Act outlines the elements of pay which are to be included in an individual's pay rate, and sets forth various other criteria for determining eligibility to and the amount of benefits, including augmentation of basic compensation for individuals with qualifying dependents; a requirement to report any earnings during a period that compensation is claimed; a prohibition against concurrent receipt of FECA benefits and benefits from OPM or certain VA benefits; and a mandate that money collected from a liable third party found responsible for the injury for which compensation has been paid be applied to benefits paid or payable. The CA 7 is used to claim compensation and the other forms in this clearance collect medical information necessary to determine entitlement to benefits under the FECA. Without the requested information, an eligible beneficiary could be denied benefits, or benefits could be authorized at an incorrect rate, resulting in an underpayment or overpayment of compensation.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–17320 Filed 7–9–02; 8:45 am]

BILLING CODE 4510–CH–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582

ACTION: Notice of additions to the labor surplus area list.

DATE: June 3, 2002.

SUMMARY: The purpose of this notice is to announce additions to the labor surplus area list for Fiscal Year (FY) 2002. Three areas are added to the list under the exceptional circumstances criteria: Coos County, New Hampshire; Essex County, Vermont, and Putnam County, Illinois. Coos County, New Hampshire and Essex County, Vermont are effective April 1, 2002. Putnam County, Illinois is effective June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Gay Gilbert, Division Chief, U.S. Employment Service, Employment and Training Administration, 200 Constitution Avenue, NW., Room C4512, Washington, DC 20210. Telephone: (202) 693–3046.

SUPPLEMENTARY INFORMATION: The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. These regulations require the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. These regulations also provide for the designation as a labor surplus area under exceptional circumstances criteria. Pursuant to those regulations the Assistant Secretary of Labor is hereby publishing additions to the annual list of labor surplus areas for FY 2002.

Eligible labor surplus areas	Civil jurisdictions included
Illinois: Putnam County	Putnam County.
New Hampshire: Coos County.	Coos County.
Vermont: Essex County	Essex County.

For the convenience of the public, the Labor Surplus Area list is posted on the Internet at the following addresses: *www.doleta.gov* and *www.usworkforce.org.*

Emily Stover DeRocco,

Assistant Secretary of Labor.

[FR Doc. 02–17322 Filed 7–9–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–02–1]

Application for a Permanent Variance From American Boiler and Chimney Co. and Oak Park Chimney Corp.; Notice of Correction and Extension of Comment Period

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of correction and of an extension of the period for submitting comments and hearing requests.

SUMMARY: On May 23, 2002, the Occupational Safety and Health Administration (*e.g.,* ''OSHA'' or ''the Agency'') published in the **Federal Register** a notice of an application for a permanent variance submitted by the American Boiler and Chimney Co. and Oak Park Chimney Corp. (67 FR 36263). Today, OSHA is correcting information that it published in that notice under the sections for addresses and further information. In addition, the Agency is extending the period for submitting comments and hearing requests by 30 days to allow interested parties an opportunity to resubmit their comments and hearing requests, as well as to send additional comments or to submit an initial hearing request if they wish to do so.

DATES: Interested parties must submit their written comments and hearing requests by August 9, 2002.

ADDRESSES: You may submit three copies of your written comments to the OSHA Docket Office, Docket No. V–02–01, Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone (202) 693–2350. If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You do not have to send OSHA a hard copy of your faxed comments.

You may submit comments electronically through OSHA's Homepage at *http://ecomments.osha.gov/.* Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies of the material to the OSHA Docket Office at the above address. When submitting such material to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, subject, and docket number so that we can attach them to your electronic comments.

Send requests for a hearing to Ms.Veneta E. Chatmon, Office of Information and Consumer Affairs, Room N–3649, OSHA, U. S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

FOR FURTHER INFORMATION CONTACT: For information about this notice or the previous **Federal Register** notice containing the variance application contact Ms. Maryann S. Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2110; fax (202) 693–1644. You can obtain additional copies of this notice or the previous **Federal Register** notice containing the variance application from the Office of Publications, Room N–3101, OSHA, U. S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210; telephone (202) 693–1888. For electronic copies of this notice contact OSHA on its Webpage at *http://www.osha.gov,* and select ''Federal Register,'' ''Date of Publication,'' and then ''2002.''

SUPPLEMENTARY INFORMATION: On May 23, 2002, OSHA published in the **Federal Register** a notice of an application for a permanent variance submitted by the American Boiler and Chimney Co. and Oak Park Chimney Corp. (67 FR 36263). That notice contained erroneous information regarding the docket number, the room number for sending comments, the number of copies required, the fax number for sending comments, and the name of the individual to contact for further information.

This notice provides the correct information in the sections titled **ADDRESSES** and **FOR FURTHER INFORMATION.** In addition, the Agency is extending the period for submitting comments and hearing requests by 30 days to allow interested parties an opportunity to resubmit their comments and hearing requests, as well as to send additional comments or to submit a hearing request if they wish to do so.

Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 29 CFR part 1905.

Signed at Washington, DC on July 1, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–17321 Filed 7–9–02; 8:45 am]

BILLING CODE 4510–26–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

Time and Date: 4:30 p.m., August 12, 2002.

Place: On board MISSISSIPPI V at City Front, Marquette, IA.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Paul District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 3:30 p.m., August 13, 2002.

Place: On board MISSISSIPPI V at Oneida Landing, Davenport, IA.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Rock Island District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 9:30 a.m., August 15, 2002.

Place: On board MISSISSIPPI V at Melvin Price Locks and Dam, Alton, IL.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Louis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 8:30 a.m., August 19, 2002.

Place: On board MISSISSIPPI V at Old Ferry Landing, Tiptonville, TN.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi river and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 8:30 a.m., August 20, 2002.

Place: On board MISSISSIPPI V at Tom Sawyer Park, West Memphis, AR.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 10:30 a.m., August 21, 2002.

Place: On board MISSISSIPPI V at Lake Providence Port, Lake Providence, LA.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

Time and Date: 9:30 a.m., August 23, 2002.

Place: On board MISSISSIPPI V at Cenac Towing Company, Houma, LA.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Stephen Gambrell, telephone 601–634–5766.

Timothy S. Gambrell,

Executive Assistant, Mississippi River Commission.

[FR Doc. 02–17476 Filed 7–8–02; 2:02 pm]

BILLING CODE 3710–GX–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–10]

Exelon Generation Company, LLC, Dresden Nuclear Power Station, Unit 1; Exemption

1.0 Background

The Exelon Generation Company (EGC), or the licensee, is the holder of Facility Operating License No. DPR–2, which authorizes operation of the Dresden Nuclear Power Station (DNPS), Unit 1. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

DNPS, Unit 1, is located approximately 50 miles southwest of Chicago in Grundy County, Illinois. DNPS, Unit 1, was shut down in October 1978. On July 23, 1986, NRC issued Amendment No. 36 to License DRP–2 for DNPS, Unit 1, changing the license to possess-but-not-operate status. The licensee at that time, Commonwealth Edison, informed the NRC that it had decided to permanently cease operations at DNPS, Unit 1, and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82, upon docketing of the certifications in August 31, 1984, the facility operating license no longer authorizes the licensee to operate the

reactor or to load fuel into the reactor vessel.

2.0 Request/Action

Section 140.11(a)(4), Part 140 Title 10 of the Code of Federal Regulations (10 CFR) requires a reactor with a rated capacity of 100,000 electrical kilowatts or more to maintain liability insurance of $200 million and to participate in a secondary insurance pool.

EGC requested to be exempted from participation in the secondary insurance pool based on the permanently defueled status of DNPS, Unit 1. Subpart, Part 140.11(a)(4), applies to applicants for and holders of licenses issued pursuant to 10 CFR Part 50.

The NRC may grant exemptions from the requirements of 10 CFR Part 140 of the regulations which, pursuant to 10 CFR 140.8, are authorized by law and are otherwise in the public interest. The underlying purpose of Section 140.11 is to provide sufficient liability insurance to ensure funding for claims resulting from a nuclear incident or a precautionary evacuation.

3.0 Discussion

On December 18, 2001, EGC requested an exemption from the financial protection requirement limits of 10 CFR 140.11(a)(4). The exemption would allow EGC to withdraw from participation in the secondary insurance pool based on the permanently defueled status, with all spent fuel removed from the spent fuel pool of DNPS, Unit 1. By letter received on February 13, 2002, the licensee notified the NRC that as of January 15, 2002, the DNPS, Unit 1, spent fuel storage pool no longer contains spent fuel assemblies.

The DNPS, Unit 1, spent fuel assemblies were either relocated to the DNPS, Unit 3, spent fuel pool or were loaded into dry cask storage containers and relocated to the independent spent fuel storage installation (ISFSI).

The financial protection limits of 10 CFR 140.11 were established to require a licensee to maintain sufficient insurance to cover the costs of a nuclear accident at an operating reactor. Those costs were derived from the consequences of a release of radioactive material from the reactor. In a permanently shutdown and defueled reactor facility, the reactor will never again be operated, thus eliminating the possibility of accidents involving the reactor. Because DNPS, Unit 1, no longer contributes as great a risk as does an operating reactor plant, this reduction in risk should be reflected in the indemnification requirements to which the licensee is subject. The NRC staff examined the licensee's rationale to support the exemption request and concluded that the exemption only involves changes to indemnity insurance.

The NRC staff concluded, based on an environmental assessment, that no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

SECY 96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated January 17, 1997, states that, in a staff requirements memorandum dated July 13, 1993, the Commission approved staff recommendations to allow licensees that have permanently shut down to withdraw from secondary financial protection. SECY 96–256, also addressed a petition, PRM–50–57, requesting that the requirement for offsite primary and secondary liability coverages required under 10 CFR 140.11(a)(4) be reduced or, preferably, eliminated for shutdown reactors when no nuclear fuel is on the reactor site.

SECY 96–256 defines several configurations for permanently shutdown reactors. A reactor in configuration 3 is a reactor that is permanently shutdown with no spent fuel either in the reactor or the spent fuel pool. This configuration also includes the fact that all spent fuel has been removed to an offsite or onsite dry storage ISFSI and that the remaining radioactive inventory depends on the decommissioning status and includes liquid radwaste, activated reactor components, and contaminated structural materials.

EGC requested elimination of the secondary insurance liability. However, the primary offsite liability insurance coverage requirement of 10 CFR 140.11(a)(4) will remain unchanged. The NRC staff determined that the offsite cleanup costs of an accident considered to be the most costly for a permanently defueled reactor with spent fuel removed from the spent fuel pool would be negligible. Thus, participation in the secondary insurance pool for offsite financial protection should not be required for a facility in that condition.

Based upon SECY 96–256 and the current status of DNPS, Unit 1, the NRC staff concludes that participation in the secondary insurance pool for off site financial protection pursuant to 10 CFR 140.11(a)(4) is not required for a permanently shutdown and defueled plant.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 140.8, the exemption from the participation in the private liability insurance pool is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Therefore, the Commission hereby grants EGC an exemption from the requirements of 10 CFR 140.11(a)(4) for DNPS, Unit 1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 39446 dated June 7, 2002).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of July, 2002.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–17287 Filed 7–9–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Reinstatement Without Change; Comment Request

Upon written request, copies available from:
Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Reinstatement without Change
Form N–8b–4, SEC File No. 270–180, OMB Control No. 3235–0247

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for reinstatement without change and approval.

Form N–8b–4—Registration Statement of Face-Amount Certificate Companies

Form N–8b–4 is the form used by face-amount certificate companies to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)). Form N–8b–4

requires disclosure about the organization of a face-amount certificate company, its business and policies, its investment in securities, its certificates issued, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act of 1940.

Based on the Commission's industry statistics, the Commission estimates that there would be approximately 1 annual filing on Form N–8b–4. The Commission estimates that each registrant filing a Form N–8b–4 would spend 171 hours in preparing and filing the Form and that the total hour burden for all Form N–8b–4 filings would be 171 hours. Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

The information provided on Form N–8b–4 is mandatory. The information provided on Form N–8b–4 will not be kept confidential. The Commission 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.

Written comments are invited on: (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 28, 2002.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–17247 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17f–2(d) SEC File No. 270–36 OMB Control No. 3235–0028

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f–2(d) was adopted on March 16, 1976, and was last amended on November 18, 1982. Paragraph (d) of the rule (i) requires that records produced pursuant to the fingerprinting requirements of section 17(f)(2) of the Securities Exchange Act of 1934 (''Exchange Act'') be maintained, (ii) permits the designating examining authorities of broker-dealers or members of exchanges, under certain circumstances, to store and to maintain records required to be kept by this rule, and (iii) permits the required records to be maintained on microfilm.

The general purposes for Rule 17f–2 are: (i) To identify security risk personnel; (ii) to provide criminal record information so that employers can make fully informed employment decisions; and (iii) to deter persons with criminal records from seeking employment or association with covered entities.

Retention of fingerprint records, as required under paragraph (d) of the rule, enables the Commission or other examining authority to ascertain whether all required persons are being fingerprinted and whether proper procedures regarding fingerprint are being followed. Retention of these records for the term of employment of all personnel plus three years ensures that law enforcement officials will have easy access to fingerprint cards on a timely basis. This in turn acts as an effective deterrent to employee misconduct.

Approximately 9,468 respondents are subject to the recordkeeping requirements of the rule. Each respondent keeps approximately 32 new records per year, which takes approximately 2 minutes per record for the respondent to maintain, for an annual burden of 64 minutes per respondent. All records subject to the rule must be retained for the term of employment plus 3 years. The Commission estimates that the total annual cost to submitting entities is approximately $196,850. This figure reflects estimated costs of labor and storage of records.

Written comments are invited on: (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: June 28, 2002.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–17248 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–15587]

Issuer Delisting: Notice of Application To Withdrawal From Listing and Registration on the American Stock Exchange LLC (Med Diversified, Inc., Common Stock, $.001 par value)

July 3, 2002.

Med Diversified, Inc., a Nevada Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Nevada, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

On June 28, 2002, the Board of Directors (''Board'') of the Issuer unanimously approved a resolution to withdraw the Issuer's Security from listing on the Amex. The Issuer stated that the Board took such action because the Issuer was unable to meet the Amex's listing requirements given the financial performance for its most recently ended fiscal year. The Issuer advised the Exchange that it intends to seek quotation of its Security on the OTC Bulletin Board.

Any interested person may, on or before July 24, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–17246 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25648; 812–11930]

SunAmerica Asset Management Corp., et al.; Notice of Application

July 3, 2002.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order [1] (''Prior Order'') that permits a portion of a portfolio of certain registered investment companies (''Unaffiliated Portion'') advised by a subadviser (''Unaffiliated Subadviser'') to engage in certain principal and brokerage transactions with an affiliated person of another subadviser to the same portfolio. The requested order would permit an Unaffiliated Portion that is advised by an Unaffiliated Subadviser to purchase securities issued by the other subadviser or an affiliated person of the other subadviser within the limits rule 12d3–1 under the Act.

Applicants: SunAmerica Asset Management Corp. (''SAAMCo''); SunAmerica Style Select Series, Inc. (''Style Select'') and Seasons Series Trust (''Seasons'' and together with Style Select, the ''Funds''); American Century Investment Management, Inc. (''American Century''); Berger Financial Group, LLC (''Berger''); Credit Suisse Asset Management, LLC (''CSAM''), Deutsche Asset Management, Inc. (''DAMI''); Dresdner RCM Global Investment LLC (''Dresdner''); Janus Capital Management LLC (''Janus''); Jennison Associates, LLC (''Jennison''); Marisco Capital Management, LLC (''Marisco''); Massachusetts Financial Services Company (''MFSC''); Morgan Stanley Investments L.P. (''Morgan Stanley''); State Street Research & Management Company (''State Street'') and T. Rowe Price Associates, Inc. (''T. Rowe Price'') (each of American Century, Berger, CSAM, DAMI, Dresdner, Janus, Marisco, Morgan Stanley, State Street, and T. Rowe Price, an ''Affiliated Subadviser'').

FILING DATES: The application was filed on January 6, 2000 and amended on June 4, 2002. In addition, a letter was submitted on July 2, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 29, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: SAAMCo and the Funds, SunAmerica Center, 733 Third Avenue, New York, New York 10017–3204; American Century, American Century Tower, 4500 Main Street, Kansas City, Missouri 64111; Berger, 210 University Blvd., Suite 800, Denver, Colorado 80206; CSAM, 466 Lexington Ave., New York, New York 10017; DAMI, 280 Park Ave., New York, New York 10017; Dresdner, Four Embarcadero Center, San Francisco California 94111; Janus, 100 Fillmore Street, Denver, Colorado 80206–4923; Jennison, 466 Lexington Ave., New York, New York 10017; Marisco, 1200 17th Street, Suite 1300, Denver, Colorado 80202; MFSC, 500 Boylston Street, Boston, Massachusetts 02116; Morgan Stanley, 1 Tower Bridge, West Conshoshoken Pennsylvania 19428–0868; State Street, One Financial Center, Boston, Massachusetts 02111–2690; and T. Rowe-Price, 100 East Pratt Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Special Counsel, at (202) 942–0572, or Nadya B. Roytblat, Assistant Director, 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 SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Funds are open-end management investment companies registered under the Act. Style Select consists of twelve separate portfolios (the ''Style Select Portfolios''), each of which is advised by SAAMCo and several investment subadvisers. Seasons consists of nineteen separate portfolios, sixteen of which are advised by SAAMCo and several investment subadvisers (the ''Seasons Portfolios,'' collectively with the Style Select Portfolios, the ''Portfolios'').

2. SAAMCo is an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). SAAMCo selects the subadvisers for the Style Select and Seasons Portfolios (the ''Subadvisers''), provides various administrative services, and supervises the Portfolios' daily business affairs, subject to oversight by the board of directors or trustees of each Fund.

[3] 17 CFR 200.30–3(a)(1).

[1] SunAmerican Asset Management Co., et al., Investment Company Act Release Nos. 23094 (Mar. 31, 1998) (notice) and 23161 (Apr. 29, 1998) (order).

SAAMCo also directly advises portions of five Style Select Portfolios and nine of the Seasons Portfolios.[2] Subadvisers for the Style Select and Seasons Portfolios include American Century, Berger, CSAM, DAMI, Dresdner, Janus, Marisco, Morgan Stanley, State Street, and T. Rowe Price.

3. Applicants request relief to permit an Unaffiliated Portion of a Portfolio that is managed by an Unaffiliated Subadviser to acquire equity or debt securities issued by a Subadviser to another portion of the Portfolio (the Subadviser, an ''Affiliated Subadviser,'' the portion, ''Affiliated Portion''), or an affiliated person of the Affiliated Subadviser engaged in securities-related activities (''Affiliated Issuer''), within the limits of rule 12d3–1 under the Act. The requested relief would apply only where an Affiliated Issuer is deemed to be an affiliated person or an affiliated person of an affiliated person of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another portion of the same Portfolio.

4. Applicants state that the advisory contract with each of the Subadvisers to the Portfolios assigns the Subadviser responsibility to manage a discrete portion of the respective Portfolio. Each Subadviser is responsible for making independent investment and brokerage allocation decisions based on its own research and credit evaluations. SAAMCo does not dictate or influence investment or brokerage allocation decisions, or have the contractual right to do so, with respect to the Portfolios (except for those portions directly advised by SAAMCo). Each Subadviser to a Portfolio is compensated based on a percentage of the value of assets allocated to that Subadviser. For two Style Select Portfolios, SAAMCo also pays from its own resources, an additional $100,000 to the Subadviser for each Portfolio with the highest total return for its portion of the Portfolio for each calendar year.

Applicants' Legal Analysis

1. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting (collectively, ''securities-related activities''). Rule 12d3–1 under the Act exempts from the prohibition of section 12(d)(3) purchases of securities of an issuer engaged in securities-related activities if certain conditions are met. One of these conditions, set forth in rule 12d3–1(c), prohibits the acquisition of a security issued by the investment company's investment adviser, promoter, or principal underwriter, or any affiliated person of the investment adviser, promoter, or principal underwriter.

2. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

3. Applicants state that an Affiliated Issuer would be a Subadviser or an affiliated person of a Subadviser. As an investment adviser to a portion of a Portfolio, a Subadviser is deemed to be an investment adviser to the entire Portfolio. Thus, applicants state that a purchase by an Unaffiliated Portion of securities issued by an Affiliated Issuer would not meet rule 12d3–1(c) and that applicants are therefore unable to rely on the rule.

4. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. For the reasons stated below, applicants believe that the terms of the proposed transactions meet the standards of section 6(c).

5. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit an Unaffiliated Portion to purchase securities issued by an Affiliated Issuer within the limits of rule 12d3–1. Applicants state that their proposal does not raise the conflicts of interest that rule 12d3–1(c) was designed to address because of the nature of the affiliation between an Unaffiliated Subadviser (and the Unaffiliated Portion) and an Affiliated Issuer. Applicants submit that each Subadviser acts independently of the other Subadvisers in managing the assets allocated to its portion of the Portfolio. Applicants also state that permitting an Unaffiliated Portion to purchase securities issued by an Affiliated Issuer will permit the Unaffiliated Portion to take advantage of advantageous investment opportunities.

Applicants' Conditions

Applicants agree that the requested order amending the Prior Order will be subject to the following conditions:

1. Each Portfolio that relies on the order will be advised by an Affiliated Subadviser and at least one Unaffiliated Subadviser and will be operated consistent with the manner described in the application.

2. Each Portfolio will comply with rule 12d3–1, except paragraph (c) of that rule solely with respect to purchases by an Unaffiliated Portion of securities issued by an Affiliated Issuer that would be prohibited by rule 12d3–1(c) solely because the Affiliated Issuer is an Affiliated Subadviser, or an affiliated person of an Affiliated Subadviser, to an Affiliated Portion of the Portfolio.

3. No Affiliated Subadviser will directly or indirectly consult with any Unaffiliated Subadviser concerning allocation of principal or brokerage transactions.

4. No Affiliated Subadviser will participate in any arrangement whereby the amount of its subadvisory fees will be affected by the investment performance of any Unaffiliated Subadviser except that SAAMCo may pay from its own resources an amount to the Subadviser for each Portfolio with the highest total return for its portion of the Portfolio for each calendar year.

5. No Affiliated Subadviser (except by virtue of serving as a Subadviser to a discrete portion of a Portfolio), Affiliated Issuer, or Affiliated Broker-Dealer will be an affiliated person, or a second-tier affiliate, of SAAMCo, any Unaffiliated Subadviser, or any principal underwriter, promoter, officer, trustee, or employee of the Portfolio.

6. With respect to purchases of securities by an Affiliated Portion during the existence of any underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer, the conditions of rule 10f–3 will be satisfied except that paragraph (b)(7) will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–17327 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

[2] The terms ''Unaffiliated Subadviser'' and ''Unaffiliated Portion'' include SAAMCo and the discrete portion of a Portfolio directly advised by SAAMCo, respectively, provided that SAAMCo manages its portion of the Portfolio independently of the portions managed by the other Subadvisers to the Portfolio, and SAAMCo does not control or influence any other Subadviser's investment decisions.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46148; File No. SR–Amex–2002–56]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange LLC Relating to Odd-Lots in Nasdaq Securities

June 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change as amended from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 118 (Trading in Nasdaq National Market Securities) and Rule 205 (Manner of Executing Odd-Lot Orders) to describe odd-lot execution procedures applicable to trading Nasdaq Market securities. These procedures are proposed to be implemented on a six-month pilot program basis. The text of the proposed rule change is below. Proposed new language is in italics.

Trading in Nasdaq National Market Securities

Rule 118. (a) through (i) No change.

(j) *Odd-Lot Orders—Odd lot orders in Nasdaq National Market securities shall be executed in the following manner:*

(i) *Market and Executable Limit Orders—A market or executable limit order shall receive automatic execution, unless otherwise provided herein, at the price of the adjusted national best offer (in the case of an order to buy) or qualified national best bid (in the case of an order to sell) in the security at the time the order has been received at the trading post or through the Amex Order File.*

All market and executable limit odd-lot orders entered prior to the opening of trading of Nasdaq National Market securities on the Exchange shall receive automatic execution at the price of the first round—lot or Part of Round Lot (PRL) transaction on the Exchange.

For purposes of this subparagraph (j)(i), the qualified national best bid or offer for a Nasdaq National Market security shall mean the highest bid and lowest offer, respectively, disseminated (i) by the Exchange or (ii) by another market center participating in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''Plan''); provided, however, that the bid and offer in another such market center will be considered in determining the qualified national best bid or offer in a stock only if (A) the (bid or offer) is no more than 25 cents above the bid (or below the offer), respectively, disseminated by the Exchange, (B) the quotation conforms to the requirements of Rule 127 (''Minimum Price Variations''), (c) the quotation does not result in a locked or crossed market, (D) the market center is not experiencing operational or system problems with respect to the dissemination of quotation information, and (E) the bid or offer is ''firm,'' that is, members of the market center disseminating the bid or offer are not relieved of their obligations with respect to such bid or offer under paragraph (c)(2) of Rule 11Ac1–1 pursuant to the ''unusual market'' exception of paragraph (b)(3) of Rule 11Ac1–1.

(ii) *Limit Orders; Stop Orders; Stop-Limit Orders; Other Order Types—Unless otherwise provided herein, non-executable limit, stop, and stop limit orders shall be executed in accordance with Rule 205, Parts A(2), A(3), and A(4), respectively. Orders to buy or sell ''at the close'' shall be filled at the price of the closing round-lot sale on the Exchange. An odd-lot order received prior to the close but not filled either before the close or on the close may be filled after the close in accordance with the provisions of Rule 205, Part C(1).*

(iii) *Non-Regular Way Trades—Non-regular way trades shall be effected in accordance with the provisions of Rule 205, Part C(2).*

(iv) *Locked and Crossed Market Conditions*

(a) *For market and executable limit orders entered after the opening, when the national best bid and offer is in a locked market condition (i.e., the bid and offer are the same), odd-lot buy and sell orders will be executed at that locked market price.*

(b) *Crossed Market Condition—When a crossed market condition exists (i.e., bid higher than offer) and the national best displayed bid is higher than the national best displayed offer by $.05 or less, market and executable limit orders will receive automatic execution at the mean of the bid and offer prices. If the mean is in a subpenny increment, the price of execution would be rounded up to the nearest $.01. When the national best displayed bid is higher than the offer by more than $.05, an odd-lot order will not receive automatic execution and is to be executed manually at the time a locked or crossed market condition no longer exists, in accordance with subparagraph (i) of this paragraph (j).*

(v) *No odd-lot differential may be charged on any odd-lot orders, except for non-regular way trades effected under Rule 118 (j)(iii).*

(vi) *Odd-lot orders in Nasdaq National Market securities are permitted to be marked (''short'') and are acceptable for all order types, and Rule 7, Commentary .02 shall apply to such orders.*

Manner of Executing Odd-Lot Orders

Rule 205

Commentary

.01 through .04 No change.

.05 Odd-lot orders in Nasdaq National Market securities shall be executed in accordance with Rule 118(j).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has filed a proposed rule change to permit trading of Nasdaq National Market securities pursuant to unlisted trading privileges.[3] The Exchange proposes to add new paragraph (j) to proposed Rule 118 to describe procedures applicable to the execution of odd-lot orders. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45365 (January 30, 2001), 67 FR 5626 (February 6, 2002)(SR–Amex–2001–106).

Exchange currently is modifying its existing system in order to provide automatic execution of market and executable limit orders in Nasdaq National Market securities of less than 100 shares in a manner generally consistent with procedures set forth in Amex Rule 205. Round lot orders (*e.g.*, 100 shares) and Part of Round Lot (''PRL'') orders (*e.g.*, 175 shares) will not be subject to automatic execution. The Exchange proposes to implement these procedures on a six-month pilot program basis.

Market and executable odd-lot limit orders to buy (sell) will be executed at the price of the qualified national best offer (bid) at the time the order is received at the trading post or through the Amex Order File (AOF). Market and executable limit orders entered before the opening of trading in Nasdaq securities on the Exchange will receive an execution at the price of the first reported round-lot or PRL on the Amex.

For purposes of this provision, the qualified national best bid or offer is the highest bid and lowest offer disseminated by the Amex or by another market center that is a participant in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis. The bid or offer of such other market center will be considered in determining the qualified national best bid or offer only if it meets the conditions specified in proposed Rule 118(j)(i), including that the best bid or offer is no more than 25 cents away from Amex's displayed bid or offer; the quotation conforms to Amex Rule 127 (''Minimum Price Variations''), that is, the bid or offer must be in a one cent increment; the quotation does not result in a locked or crossed market; the market center is not experiencing operational or system problems affecting quotation dissemination; and members of the other market center disseminating the quotations are not relieved of their obligations with respect to their quotations pursuant to the ''unusual market'' exception of Rule 11Ac1–1. These exceptions are similar to those applied to execution of odd-lots in Amex-listed securities under Rule 205, Commentary .04.

Procedures for the execution of non-executable limit orders, stop orders, stop limit orders, other order types, orders filled after the close and non-regular way trades will be similar to existing odd-lot execution procedures under Amex Rule 205A(2)–A(4), B and C. Such orders will be processed manually and will not be automatically executed.

Locked and Crossed Market Conditions

The Exchange will be implementing specific procedures for automatically executing market and executable limit odd-lot orders entered after the opening of Amex trading in Nasdaq securities when the national best bid and offer is in a locked market condition (*i.e.*, bid is equal to the offer) or a crossed market condition (*i.e.*, bid is higher than the offer). If a locked market exists, market orders and executable buy and sell limit orders will be executed at the same price as the locked price. If a crossed market exists, and the bid is higher than the offer by $.05 or less, market and executable limit orders will be executed at the mean of the crossed bid and offer. If the mean is less than $.01, the execution will be rounded up to the nearest $.01.

Examples:

BBO is $10.04 to $10.00
Market odd lot order to buy or sell arrives
Execute at $10.02

BBO is $10.05 to $10.00
Market odd lot order to buy or sell arrives
Execute at $10.03 ($10.025 is rounded to $10.03)

If a crossed market exists and the bid is higher than the offer by more than $.05, then an odd-lot order will not be automatically executed, but will be executed manually in accordance with proposed Rule 118(j)(i) (*i.e.*, filled at the price of the next unlocked and uncrossed qualified national bid or offer).

The Exchange also proposes to add new Commentary .05 to Rule 205 to reference Rule 118(j) odd-lot procedures.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [4] in general and furthers the objectives of Section 6(b)(5) [5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2002–56 and should be submitted by July 25, 2002.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(6).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–17132 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934 Release No. 46159/July 2, 2002]

In the Matter of: The National Association of Securities Dealers, Incorporated, (File Nos. SR–NASD–2002–61 and SR–NASD–2002–68); The Cincinnati Stock Exchange, Incorporated, (File No. SR–CSE–2002–06); and The Pacific Exchange, Incorporated, (File No. SR–PCX–2002–37); Order of Summary Abrogation

Notice is hereby given that the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(3)(C) of the Securities Exchange Act of 1934 (''Act''),[1] is summarily abrogating certain proposed rule changes of The National Association of Securities Dealers, Incorporated (''NASD''), The Cincinnati Stock Exchange, Incorporated (''CSE''), and The Pacific Exchange, Incorporated (''PCX'').

On May 3, 2002, the NASD, through its subsidiary, The Nasdaq Stock Market (''Nasdaq''), filed SR–NASD–2002–61.[2] The proposed rule change (1) instituted a fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market; (2) expanded the market data revenue available for sharing with members under NASD Rule 7010(a)(2) by eliminating the deduction for the cost of regulatory services provided by NASD Regulation, Incorporated and increased the percentage of eligible revenue that is shared; and (3) extended the pilot period with respect to which market data revenue sharing is available through December 31, 2002.[3]

On June 13, 2002, the NASD, through its subsidiary, Nasdaq, filed with the Commission SR–NASD–2002–68.[4] The proposed rule change (1) modified the execution fees for Nasdaq InterMarket trades executed through the Intermarket Trading System and Nasdaq's Computer Assisted Execution System; and (2) modified and extended the transaction credit pilot program for InterMarket trades through December 31, 2002.

On June 28, 2002, the CSE filed with the Commission SR-CSE–2002–06. The proposed rule change extended a pilot revenue sharing program for trading Nasdaq National Market securities through August 30, 2002.[5]

On June 28, 2002, the PCX filed SR–PCX–2002–37, which extended a pilot program for sharing market data revenue with ETP Holders and Sponsored Participants on the Archipelago Exchange. The proposal extended the pilot through August 30, 2002.

Each of these filings was immediately effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act.[6]

Pursuant to section 19(b)(3)(C) of the Act,[7] at any time within 60 days of the date of filing a proposed rule change pursuant to section 19(b)(1) of the Act,[8] the Commission may summarily abrogate the change in the rules of the self-regulatory organization and require that the proposed rule change be re-filed in accordance with the provisions of section 19(b)(1) of the Act[9] and reviewed in accordance with section 19(b)(2) of the Act,[10] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

The Commission believes that the above-referenced proposed rule changes raise serious questions as to whether they are consistent with the Act and with the protection of investors. These questions include, among other things, the effect of market data rebates on the accuracy of market data and on the regulatory functions of self-regulatory organizations.

Accordingly, the Commission believes that the procedures provided by section 19(b)(2) of the Act[11] will provide a more appropriate mechanism for determining whether the proposed rule changes are consistent with the Act. Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to abrogate the proposed rule changes.

It is therefore ordered, pursuant to section 19(b)(3)(C) of the Act,[12] that File Nos. SR–NASD–2002–61, SR–NASD–2002–68, SR–CSE–2002–06, and SR–PCX–2002–37 be, and they hereby are, summarily abrogated. If the self-regulatory organizations choose to re-file the proposed rule changes, they must do so pursuant to sections 19(b)(1)[13] and 19(b)(2) of the Act.[14]

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–17249 Filed 7–9–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3425, Amdt. #2]

State of Iowa; Disaster Loan Areas

In accordance with a notice received from the Federal Emergency Management Agency, dated July 1, 2002, the above numbered declaration is hereby amended to include Des Moines, Henry, Lee and Louisa Counties in the State of Iowa as disaster areas due to damages caused by severe storms and flooding beginning on June 3, 2002 and continuing through June 25, 2002.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Jefferson and Van Buren Counties in Iowa; Hancock, Henderson and Mercer Counties in Illinois; and Clark County in Missouri. All other counties contiguous to the above named primary counties have been previously declared.

The economic injury number assigned to Missouri is 9Q4800.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 18, 2002, and for economic injury the deadline is March 19, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 2, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–17262 Filed 7–9–02; 8:45 am]

BILLING CODE 8025–01–P

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(3)(C).

[2] *See* Securities Exchange Act Release No. 45916 (May 10, 2002).

[3] This pilot, which was effective on filing, replaced the pilot filed in SR–NASD–2002–17.

[4] *See* Securities Exchange Act Release No. 46153 (July 1, 2002).

[5] *See* Securities Exchange Act Release No. 46147 (June 28, 2002).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 15 U.S.C. 78s(b)(3)(C).

[8] 15 U.S.C. 78s(b)(1).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(2).

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(C).

[13] 15 U.S.C. 78s(b)(1).

[14] 15 U.S.C. 78s(b)(2).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3423, Amdt. #2]

State of Minnesota; Disaster Loan Area

In accordance with notices received from the Federal Emergency Management Agency, dated June 28 and July 1, 2002, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on June 9, 2002 and continuing through June 28, 2002. The declaration is also amended to include Becker and Clearwater Counties in the State of Minnesota as disaster areas due to damages caused by severe storms, flooding and tornadoes beginning on June 9, 2002 and continuing through June 28, 2002.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Hubbard, Otter Tail and Wadena Counties in Minnesota. All other counties contiguous to the above-named primary counties have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 13, 2002 and for economic injury the deadline is March 14, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 2, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–17261 Filed 7–9–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses: (OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503; (SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Disability Report—Adult—0960–0579. The Social Security Act requires claimants to furnish medical and other evidence to prove they are disabled. Applicants for disability benefits will complete form SSA–3368. The information will be used, in conjunction with other evidence, by State DDSs to develop medical evidence, to assess the alleged disability, and to make a disability determination. The respondents are applicants for title II and title XVI disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 2,116,667.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 2,116,667 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to the address listed above.

1. *Statement Regarding Date of Birth and Citizenship—0960–0016.* The Social Security Administration (SSA) collects information on Form SSA–702 when preferred or other evidence is not available to prove age for an individual applying for Social Security benefits. The respondents are applicants for one or more Social Security benefits who need to establish their dates of birth as a factor of entitlement or U.S. citizenship as a factor of payment.

Type of Request: Extension of an OMB-Approved Information Collection.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 200 hours.

2. *Self-Employment/Corporate Officer Questionnaire—0960–0487.* Form SSA–4184 is used by SSA to develop earnings and corroborate a claimant's allegations regarding retirement when the claimant is self-employed or a corporate officer. The information collected is used to determine the benefit amount. The respondents are self-employed individuals and corporate officers.

Type of Request: Extension of an OMB-Approved Information Collection.

Number of Respondents: 20,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 6,667 hours.

3. *Disability Report Update—0960–0511.* Form SSA–455 or SSA–455–OCR–SM is used by SSA to collect information when the continuing disability review (CDR) diary of a recipient of SSA-administered benefits, based on disability, has matured or there is an indication of possible medical improvement (e.g., a report of return to work or a physician's clearance for work). The information collected from beneficiaries is reviewed by technicians, including specialists in the evaluation of work and earnings and in disability adjudication, to determine if a full medical CDR should be processed or deferred to a later date. The respondents are recipients of benefits, based on disability, under titles II and/or XVI of the Social Security Act, as amended.

Type of Request: Extension of an OMB-Approved Information Collection.

Number of Respondents: 702,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,500 hours.

4. *Farm Arrangement Questionnaire—0960–0064.* SSA needs the information collected on Form SSA–7157–F4 to determine if farm rental income may be considered self-employment income for Social Security coverage purposes. The respondents are individuals alleging self-employment income from renting land for farming activities.

Type of Request: Extension of an OMB-Approved Information Collection.

Number of Respondents: 38,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 19,000 hours.

5. *Request for Reconsideration—Disability Cessation—0960–0349.* Form SSA–789 collects information used by SSA to schedule disability hearings and to develop additional evidence/information for claimants whose disability is found to have ceased, not to have existed, or is no longer disabling. The information will also be used to determine if an interpreter is needed for the disability hearing. The respondents are claimants under titles II & XVI of the Social Security Act who wish to request reconsideration of disability cessation.

Type of Request: Revision of an OMB-approved Information Collection.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 12–15 minutes.

Estimated Annual Burden: 10,290 hours.

Dated: June 28, 2002.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–17211 Filed 7–9–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4062]

Bureau of Near Eastern Affairs; Humanitarian Assistance Program

AGENCY: Department of State.

ACTION: Notice.

Introduction

The Office of Northern Gulf Affairs (NGA) announces an open competition for proposals for humanitarian assistance projects in Iraq (southern, central or northern) and for Iraqi refugees in neighboring countries. Multiple awards may be made from this announcement. Proposals may address any area or sector within a broad range of humanitarian relief to Iraqi people, including, but not limited to, the following:

- Medical care, health services, and health education
- Relief to internally displaced persons or refugees
- Relief supplies
- Shelter/housing
- Water supply
- Sanitation
- Primary education
- Landmine action, education and awareness

The list is not intended to be exclusive or binding, and NGA remains open to considering a broad range of humanitarian-related NGO activities and innovative projects. Projects in Iraq must be consistent with any applicable UN resolutions.

Purpose

The purpose of this humanitarian assistance program is to respond to urgent humanitarian needs of people in Iraq, Iraqi refugees, and internally displaced persons. The primary objective is to provide relief and access to basic, life-sustaining resources in ways that meet internationally accepted standards of care in such areas as public health, medical care and services, shelter/housing, water supply, sanitation, education, and other areas.

Eligible Applicants

Eligible applicants include all non-governmental and non-profit organizations.

Legislative Authority

This program is authorized by Section 575 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (FOAA)(P.L. 106–429).

Availability of Funds

The funding level for this program is $6,600,000. It is anticipated that at least 5 awards will be made ranging from $500,000 to $3.5 million. The Grants Officer reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government.

Review Criteria

Eligible applications will be competitively evaluated according to the following criteria:

Results or Benefits Expected—The applicant clearly describes the results and benefits to be achieved. The applicant identifies how improvement will be measured on key indicators and provides milestones indicating progress. Proposed outcomes are tangible and achievable within the grant project period. (30 points)

Approach—The applicant must demonstrate that its strategy and plan are likely to achieve the proposed results; the proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished as well as the potential for the project to have a positive impact on the quality of life for Iraqi people. (25 points)

Organization Profiles—Where coalition partners are proposed, the applicant describes the rationale for the collaboration, each partner agency's respective role, and how the coalition will enhance the accomplishment of the project goals. In all cases, the applicant describes planning consultation efforts undertaken. The proposed coalition is appropriate with respective roles and financial responsibilities delineated. Evidence of commitment of coalition partners in implementing the activities is demonstrated, i.e., by letters or the terms of the signed agreement among participants. The applicant or coalition partners provide documented experience in performing the proposed services as well as adequate gender balance and constituent representation on the proposed project's advisory board. Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population. Individual organization staff including volunteers are well-qualified. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, is described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. (25 points)

Budget and Budget Justification—The budget and narrative justification are reasonable in relation to the proposed activities and anticipated results and the plan for services is realistic. (20 points)

Application/Proposal Submission and Deadline

An application (Standard Form 424) with an original signature and two clearly identified copies is required. The application form (Standard Form 424) and instructions can be obtained from either:

(1) the following Web sites:

http://www.whitehouse.gov/omb/grants/#forms

http://www.usaid.gov/procurement bus opp/procurement/forms/SF–424/

(2) Anna Mary Portz, Grants Officer, U.S. Department of State, NEA/NGA, Room 4241, 2201 C Street NW., Washington, DC 20520, telephone (202) 647–6111, fax (202) 736–4464, e-mail *portzam,@state.gov.*

Application materials must be submitted to the U.S. Department of

State, Anna Mary Portz, Grants Officer, NEA/NGA, Room 4241, 2201 C Street NW., Washington, DC 20520 on or before close of business (4:30 p.m. EST) August 1, 2002. Due to delays in regular mail delivery to the State Department, applicants are strongly encouraged to hand-carry or use couriers to deliver applications to NEA/NGA, between the hours of 8:30–4:30 p.m., to the attention of Anna Mary Portz. Express or overnight mail services may also be used, though applicants are cautioned that express/overnight mail services do not always deliver as agreed and other delays may occur until regular mail delivery is resumed.

Applicants must also provide an electronic copy of the proposal by e-mail to Anna Mary Portz, Grants Officer at e-mail address *portzam@state.gov*). Proposals must be submitted in both hard copy and by e-mail; proposals submitted only by e-mail, or only in hard copy, will not be considered. The Grants Officer must be aware that the proposal is on its way, or the package risks being considered late or turned away by Diplomatic Security.

Applications submitted by e-mail and either (1) mail (including express mail or overnight mail services), or (2) hand-carried by applicant couriers or by other representatives of the applicant, shall be considered as meeting an announced deadline if they are received on or before close of business (4:30 p.m. est) August 1, 2002.

Late Applications

Applications received after the closing date and time will be classified as late.

Applications which do not meet the criteria above are considered late applications. NGA shall notify each late applicant that its application will not be considered in the current competition.

General Instructions for Preparing a Full Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

Length of Applications

Each application narrative should not exceed 25 double-spaced pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as administration charts, position descriptions, resumes, and letters of intent or partnership agreements. Each page should be numbered sequentially, including the attachments or appendices. This limitation of 25 pages plus the SF 424 should be considered as a maximum, and not necessarily a goal.

Introduction

NGA is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Applicants shall prepare the project description statement in accordance with the following instructions.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

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.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

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 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. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. 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.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports, documentation of experience in the program area, and other pertinent information.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Budget and Budget Justification

Applicants must submit a comprehensive budget for the entire project. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets, sub-grant, or contract budgets for each program component, phase, location, or activity to provide clarification. Provide line item detail and detailed calculations for each budget object class identified. Detailed calculations must include

estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout 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. The following guidelines are for preparing the budget and budget justification.

Personnel

Description: Costs of employee salaries and wages. *Justification:* Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. *Justification:* Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). *Justification:* For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above. *Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category. *Justification:* Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc.

Justification: Attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, professional services costs, space and equipment rentals, printing and publication, computer use, and administrative costs. *Justification:* Provide computations, a narrative description and a justification for each cost under this category.

Total Direct Charges, Total Indirect Charges, Total Project Costs: Self explanatory.

Reporting Requirement

Quarterly progress and financial reports are required for all funded projects. Final reports will be due 90 days after end of project period.

Where To Obtain Additional Information

Questions regarding this Request for Proposals should be directed to Anna Mary Portz, Grants Officer, Department of State, NEA/NGA, Room 4241, 2201 C Street NW., Washington, DC, 20520, telephone (202) 647–5281, fax (202) 736–4464, e-mail portzam,@state.gov.

Dated: July 3, 2002.

Ryan Crocker,

Acting Assistant Secretary, Bureau of Near Eastern Affairs, Department of State.

[FR Doc. 02–17328 Filed 7–9–02; 8:45 am]

BILLING CODE 4710–31–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 33.17–1, Fire Prevention

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 33.17–1 Fire Prevention. This AC sets forth acceptable methods of compliance that may be used to demonstrate compliance with the fire prevention requirements under Title 14 Code of Federal Regulations (14 CFR), part 33. Section 33.17 is the primary section addressed in this AC, although other sections of part 33 that address fire prevention may also be applicable. Other related parts and sections are listed in AC 20–135, Powerplant Installation and Propulsion System Component Fire Protection Methods, Standards and Criteria Appendix 1. This AC is intended to provide guidance relating to these requirements, and is considered a supplement to AC 20–135.

DATES: Advisory Circular 33.17–1 was issued by the Assistant Manager, Engine & Propeller Directorate, ANE–100 on June 28, 2002.

How To Obtain Copies: A paper copy of AC 33.17–1 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at ''*http://www.faa.gov/*'', at the link titled ''Regulatory/Advisory'' select ''Advisory Circulars'' then select ''Regulation & Certification Advisory Circulars''

Issued in Burlington, Massachusetts, on June 28, 2002.

Francis Favara,

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

[FR Doc. 02–17374 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Guidance Material for 14 CFR 33.28, Reciprocating Engines, Electrical and Electronic Engine Control Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of proposed Advisory Circular (AC) Number 33.28–2, Guidance Material For 14 CFR § 33.28, Reciprocating Engines, Electrical And Electronic Engine Control Systems.

DATES: Comments must be received on or before September 18, 2002.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Mark Rumizen, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Mark Rumizen, Engine and Propeller Standards Staff, ANE–110, at the above address; telephone: (781) 238–7113; fax: (781) 238–7199; e-mail: *mark.rumizen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT** or by downloading the proposed AC from the following Internet Web site: *http://www.airweb.faa.gov/rgl.* The FAA invites interested parties to comment on the proposed AC. Comments should identify the subject of the AC and be submitted to the individual identified under **FOR FURTHER INFORMATION CONTACT.** The FAA will consider all communications received by the closing date before issuing the final AC.

Background

Electrical and Electronic Engine Control (EEC) technology was initially applied to turbine engines designed for large transport aircraft applications. Therefore, the information and guidance for showing compliance with § 33.28 provided by the FAA was oriented toward these applications. However, the increasing use of EEC systems in reciprocating piston engines has created a need for guidance specifically for reciprocating engines. This AC provides a means, but not the only means, of showing compliance with § 33.28 that addresses these issues.

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

Issued in Burlington, Massachusetts, on July 3, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–17378 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the two Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collections. The ICRs describe the nature of the information collections and the expected burden. The Federal Register Notices with a 60-day comment period soliciting comments on the following collections of information were published on March 28, 2002 on page 14999.

DATES: Comments must be submitted on or before August 9, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

1. *Title:* Exemptions for Air Taxi and Commuter Air Carrier Operations.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0633.

Forms(s): OST Form 4507.

Affected Public: A total of 2,059 air carriers.

Abstract: The information collected is used to determine whether or not an air taxi operation meets the Department's criteria for an operating authorization under 14 CFR Part 298. OST Form 4507 requires the air taxi to identify the aircraft it will use in its operation so that the FAA can assure that liability insurance exists for the aircraft. Also, airworthiness checks take place on the aircraft before the carrier is allowed to operate.

Estimated Annual Burden Hours: An estimated 1,026 hours annually.

2. *Title:* Enhanced Security Procedures at Certain Airports, Washington, DC Area.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0677.

Forms(S): NA.

Affected Public: A total of 444 aircraft operators.

Abstract: This rule established security measures and air traffic control procedures that permit three Maryland airports (Potomac, Hyde, and College Park) to resume normal flight operations, small business operations and private pilot operations at each of these locations.

Estimated Annual Burden Hours: An estimated 8,269 hours annually.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: Issued in Washington, DC, on July 1, 2002.

Judith D. Street,

FAA Information Collection Clearance Officer, Standards and Information Division, APF–100.

[FR Doc. 02–17365 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200: Modular Avionics

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200: Modular Avionics (MA).

DATES: The meeting will be held on July 30–August 1, 2002 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036–5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 200 meeting. The agenda will include:

- July 30:
  - Opening Session (Welcome, Introductory and Administrative Remarks, Review Agenda, Review Summary of Previous Meeting)
  - Organize Working Groups (WG) and procedures; Email exploder/ reflector & web workspace
  - Review open action items
  - Discuss standing working papers
  - Report on other groups and committees
  - (SC–135) DO–160/ED–14 Update
  - ARINC 653
  - Aircraft System-Safety Assessment (SAE S–18)
  - Update on Victoria project progress and tasks
  - Review process and procedures for joint activities
  - Discuss proposed Terms of Reference (TOR) alignment for WG–60 and SC–200
- July 31:
- Combined Session: SC–200/WG–60
  - Assessment of objectives and TOR
  - Review standing working papers. Discuss and comment on:
  - ''Definition of essential/key characteristics of MA''
  - ''MA Novelties''
  - ''Glossary of terms''
  - Discuss and review concept of ''incremental certification''
  - Review structure and arrangement:
  - Agreement of sub group co-chairs
  - Discuss working methods
  - Discuss structure and form of deliverables
  - Review preliminary proposals for document working outline
  - Update on Joint Aviation Authority (JAA) and FAA policy development
  - August 1:
  - Agree on results of joint session
  - Propose, review and approval of timescales for deliverables against the TORs
  - Agree on working papers planned for future plenary agreement
  - Allocate tasks and work plan update
  - Review action list
  - Closing Session (Make Assignments, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 3, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–17366 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/ EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/ EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held September 16–20, 2002 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at Service de l'Information Aeronautique (SAI) 8, avenue Roland Garros, B.P. 245, 33698 Bordeaux Merignac, FRANCE

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC, 20036; telephone (202) 833–9330; fax 9202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

- September 16:
  - Opening Plenary Session 9welcome and Introductory Remarks, Review/ Approval of Meeting Agenda, review Summary of Previous Meeting)
  - Presentations/Discussions
  - Subgroup 4 (Database Exchange Format)
  - Resolution of Action Items
  - Feature catalogue review
  —Aerodrome database
  —Terrain database
  —Obstacle database
- September 17:
  - Subgroup 4 (Continue previous day activities)
- September 18:
  - Subgroup 4 (Continue previous day activities)
  - Metadata Review
- September 19:
  Subgroup 4 (Continue previous day activities)
  - Quality specific requirements
  - Discuss application schemes
- September 20:
  - Closing Plenary Session (Summary of Subgroup 4, Assign Tasks, Other Business, Date and place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 3, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–17367 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Gainesville Regional Airport, Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gainesville Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part

158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 9, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822–5024.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard Crider, Director of Aviation of the Gainesville-Alachua County Regional Airport Authority at the following address: Gainesville-Alachua County Regional Airport Authority, 3880 N.E. 39th Avenue, Suite A, Gainesville, Florida 32609.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Gainesville-Alachua County Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Richard Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822–5024, 407–812–6331, Extension 19. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gainesville Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 2, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Gainesville-Alachua County Regional Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 17, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–02–C–00–GNV.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2003.

Proposed charge expiration date: February 1, 2011.

Total estimate net PFC revenue: $4,637,954.

Brief description of proposed project(s): Rehabilitate Runway 10/28 and Taxiway A1 and Taxiway B; Acquisition of Land for Noise Purposes; Rehabilitation/Stregnthening of Aircraft Aprons; Installation of Airport Perimeter Fencing; Rehabilitate Medium Intensity Runway Lights for Runway 10/28, Rehabilitate Medium Intensity Taxiway Lights for Taxiways C and E, Installation of Runway Visual Range Equipment and Rehabilitation of Airfield Guidance Signs; Update Airport Master Plan and Perform Environmental Assessment for the Extension of Runway 6/24; Rehabilitate Airfield Drainage Between Runway 10/28 and Taxiway E; Terminal Renovation to accommodate the addition of two Passenger Loading Bridges; and Passenger Facility Charge Administration Costs.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Gainesville-Alachua County Regional Airport Authority.

Issued in Orlando, FL on July 2, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 02–17373 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–08–C–00–JAC) To Impose and To Use a Passenger Facility Charge (PFC) at the Jackson Hole Airport, Submitted by the Jackson Hole Airport Board, Jackson, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at the Jackson Hole Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 9, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports Distract Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. George Larson, Airport Director, at the following address: Jackson Hole Airport Board, P.O. Box 159, Jackson, Wyoming 83001.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Jackson Hole Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (02–08–C–00–JAC) to impose and use a PFC at the Jackson Hole Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 28, 2002, the FAA determined that the application to impose and use a PFC submitted by the Jackson Hole Airport Board, Jackson Hole Airport, Jackson, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 1, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: December 1, 2002.

Proposed charge expiration date: November 1, 2004.

Total requested for use approval: $953,023.00.

Brief description of proposed project: Aircraft parking apron expansion, security improvements, friction measuring equipment, snow removal equipment, and terminal design.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue

SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Jackson Hole Airport.

Issued in Renton, Washington, on June 28, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02–17377 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–05–C–00–HDN) To Impose and To Use a Passenger Facility Charge (PFC) at The Yampa Valley Regional Airport, Submitted by The County of Routt, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to Impose and use a PFC at the Yampa Valley Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 9, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James C. Parker, Aviation Director, at the following address: Yampa Valley Regional Airport, P.O. Box 1060, 11005 RCR 51A, Hayden, Colorado 81639.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Yampa Valley Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (02–05–C–00–HDN) to impose and use a PFC at the Yampa Valley Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 28, 2002, the FAA determined that the application to impose and use a PFC submitted by the County of Routt, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 28, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: November 1, 2002.

Proposed charge expiration date: February 1, 2005.

Total requested for use approval: $1,052,470.00.

Brief description of proposed projects: Construction of Taxiway B, Runway 10/28 Rehabilitation, ADA Improvements, Security Upgrades, Land Acquisition, and Snow Renewal Equipment.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yampa Valley Regional Airport.

Issued in Renton, Washington on June 28, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02–17376 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2002–12566]

Notice of Request for Clearance of a New Information Collection: Effectiveness of Design-Build Contracting Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget's (OMB) approval for a new information collection involving responses to a questionnaire concerning design-build projects. The information to be collected will be used to analyze the effectiveness of design-build contracting procedures.

DATES: Comments must be submitted on or before September 9, 2002.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Yakowenko, (202) 366–1562, Office of Program Administration, Federal Highway Administration, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Effectiveness of Design-Build Contracting Procedures.

Background: Section 1307 of the Transportation Equity Act for the 21st Century (TEA–21, Public Law 105–178, 112 Stat. 107 (1998)) amends 23 U.S.C. 112 to allow the design-build contracting method after the FHWA promulgates a regulation prescribing the Secretary's approval criteria and procedures on qualified projects. Section 1307(f) of the TEA–21 also requires the FHWA to report to Congress on the effectiveness of design-build

contracting by June 9, 2003. The report must address:

(a) An assessment of the effect of design-build contracting on project quality, project cost, and timeliness of project delivery;

(b) Recommendations on the appropriate level of design for design-build procurements;

(c) An assessment of the impact of design-build contracting on small businesses;

(d) Assessment of the subjectivity used in design-build contracting; and

(e) Such recommendations concerning design-build contracting procedures as the Secretary determines to be appropriate.

Respondents: The FHWA will survey and interview an appropriate sample of contracting agencies and industry representatives who have experience with the design-build project delivery method. The respondents to the survey will be approximately 25 State Departments of Transportation, several local public agencies and a limited number of industry representatives who have experience with the design-build project delivery method.

Estimated Average Burden Per Response: The estimated average burden per response is two hours.

Estimated Total Annual Burden: The estimated total annual burden for all respondents is 200 hours.

Frequency: This is a one-time survey.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Access: Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Authority: The Transportation Equity Act for the 21st Century, (Public Law 105–178), section 1307 and 49 CFR 1.48.

Issued on: June 26, 2002.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 02–17312 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34217]

Hennepin County Regional Railroad Authority—Acquisition Exemption—Soo Line Railroad Company

Hennepin County Regional Railroad Authority (Authority), a noncarrier and political subdivision of the State of Minnesota, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Soo Line Railroad Company (Soo) 330 feet of railroad right-of-way and trackage (known as the Hopkins Line),[1] extending from Soo milepost 428.38 ± Engineering Station 381.90 (at or near former Chicago and North Western Transportation Company (CNW) milepost 16.3) to at or near former CNW milepost 16.2 where it connects with Authority's Kenilworth Route in St. Louis Park, MN. Authority states that a third party, Twin Cities and Western Railway Company (TC&W), will operate over the line.[2]

The transaction was expected to be consummated on or shortly after June 20, 2002 (15 days after the removal of the section 106 historic preservation condition imposed in STB AB–57 (Sub No. 52X). *See Soo Line Railroad Company—Abandonment Exemption—In Hennepin County, MN,* STB AB–57 (Sub–No. 52X) (STB served June 5, 2002).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34217, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Marilyn J. Maloney, 300 South Sixth Street, Minneapolis, MN 55487.

Board decisions and notices are available on our website at ''http://www.stb.dot.gov.''

Decided: July 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–17109 Filed 7–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The Sale Property will connect several abandoned rail lines owned by the Authority to each other and to an active rail corridor owned by the Authority known as the Kenilworth Route. The Authority acquired each of these lines for future transportation uses, including, without limitation, rail, bicycle and foot travel. Closing on the Sale Property will allow completion of a trail system known as the Midtown Greenway on the Authority's Depression Line.

[2] Anticipated rail operations by a third party would be subject to the Board's approval or exemption. As of this date no filing has been made at the Board.

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

[Docket No. TSA–2001–11120].

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Transportation Security Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and the expected burden and requests approval of forms to be used for data collection. The **Federal Register** Notice with an Emergency notice soliciting comments on the following collection of information was published on January 31, 2002 (67 FR 4866).

Comments: Comments should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: Desk Officer for the Transportation Security Administration. Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of TSA, including whether the information will have practical utility; the accuracy of

TSA's estimate of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before August 9, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Steven Cohen, Office of the Chief Counsel, Transportation Security Administration, Department of Transportation at (202) 493–1216. 400 Seventh Street (TSA–5), SW., GSA room 5002, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Transportation Security Administration (TSA)

Title: Imposition and Collection of Passenger Civil Aviation Security Service Fees.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2110–0001

Forms: September 11th Security Fees Quarterly Report Form (paper and online submission versions).

Frequency: On December 31, 2001, the Transportation Security Administration published an interim final rule imposing a security service fee (September 11th Security Fee) at 66 FR 67698. Imposition of this fee began February 1, 2002. Approximately 195 air carriers and foreign air carriers are expected to collect and remit the September 11th Security Fee. Each of these carriers are then responsible for (1) establishing and maintaining an accounting system to account for the September 11th Security Fees that are imposed, collected, refunded and remitted and (2) reporting this information to the Transportation Security Administration, U.S. Department of Transportation, on a quarterly basis. We further estimate that approximately 133 air carriers and foreign air carriers will also have to conduct an annual audit of their September 11th Security Fee activities and accounts.

Affected Public: The collection requirement applies to any direct air carrier or foreign air carrier providing air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States, on either (1) a scheduled passenger or public charter operation with an aircraft having passenger seating configuration of more than 60 seats or (2) a scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of less than 61 seats when passengers are enplaned from or deplaned into a sterile area. The further requirement to conduct an audit only applies to air carriers and foreign air carriers that collect September 11th Security Fees from more than 50,000 passengers annually.

Abstract: To pay for the costs of providing civil aviation security services as described in 49 U.S.C. § 44940, a uniform fee is imposed on passengers of air carriers and foreign air carriers providing air transportation, foreign air transportation, and intrastate transportation originating at airports in the United States. Approximately 195 air carriers and foreign air carriers are required to submit quarterly reports to TSA. In addition, the approximately 133 air carriers and foreign air carriers that collect the September 11th Security Fee from more than 50,000 passengers annually must conduct an audit of their fee collection and accounts and will have additional record keeping burdens.

Estimated Annual Burden Hours: Using the above estimate of 195 carriers a year who may have to submit quarterly reports, with an estimated 1 hour of preparation to collect and provide the information, at an assumed rate of $20 an hour, the annual estimated cost of collecting and preparing the information necessary for 780 quarterly reports is $15,600. Adding in a postage cost of $288.60 (780 reports at a cost of 37 cents to mail each one), we estimate that it will cost $15,888.60 a year to prepare and submit the information necessary to satisfy the general information collection requirement. Air carriers and foreign air carriers who will also have to conduct audits of their September 11th Security Fee activities and accounts will have an additional record-keeping burden. Using the above estimate of 133 carriers a year who may have to conduct audits, with an estimated 20 hours of preparation per audit, at an assumed rate of $150 an hour, the estimated cost of these audits is about $399,000 annually. The total estimated cost of preparing and submitting quarterly reports and conducting audits is $414,888.60 and the total estimated burden hours are 3,440. However, we believe the actual burden will be lower because TSA is providing a mechanism for the electronic submission of quarterly reports, which will reduce compliance time and costs.

Number of Respondents: We estimate that there will be 195 respondents per year for the general information collection and 133 respondents for the audit-related collection.

Summary of the Collection of Information: For purposes of collecting funds to pay for the costs of providing civil aviation security services as described in 49 U.S.C. 44940, air carriers and foreign air carriers will be required to track passenger emplanements involved in air transportation sold for flights originating at airports in the United States if the enplanement is on either (1) a scheduled passenger or public charter passenger operation with an aircraft having passenger seating configuration of more than 60 seats or (2) a scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of less than 61 seats when passengers are enplaned from or deplaned into a sterile area. These air carriers must submit quarterly reports on the total September 11th Security Fees imposed, collected, refunded and remitted for each month of the quarter.

Additionally, each air carrier and foreign air carrier that collects September 11th Security Fees from more than 50,000 passengers annually must provide for an audit at least annually of its September 11th Security Fee activities and accounts. The accountant conducting such an audit must include in it an opinion on whether (1) the direct air carrier's or foreign air carrier's procedures for collecting, holding, and remitting the fees are fair and reasonable; and (2) whether the quarterly reports fairly represent the net transactions in the security service fee accounts.

Issued on: July 5, 2002.

Robert Gardner,

Associate Under Secretary for Finance and Administration/CFO, Transportation Security Administration, Department of Transportation.

[FR Doc. 02–17351 Filed 7–9–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds Terminations: American and Foreign Insurance Company, American Interstate Insurance Company, Commercial Insurance Company of Newark, New Jersey; Globe Indemnity Company, Grain Dealers Mutual Insurance Company, National-Ben Franklin Insurance Company of Illinois, Royal Indemnity Company; Royal Insurance Company of America, Safeguard Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 29 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001 at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificates of Authority issued by the Treasury to the above-named Companies, under the United States Code, Title 31, Sections 9304–9308, to qualify as acceptable sureties on Federal bonds are terminated effective June 30, 2002.

The Companies were last listed as acceptable sureties on Federal bonds at 66 FR starting on page 35024, July 2, 2001.

With respect to any bonds currently in force with above listed Companies, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from these Companies. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the 2001 Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: June 30, 2002.

Wanda J. Rogers,

Director, Financial Accounting and Service Division, Financial Management Service.

[FR Doc. 02–17216 Filed 7–9–02; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106010–98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–106010–98 (TD 8901), Qualified Lessee Construction Allowances for Short-Term Leases (§ 1.110–1).

DATES: Written comments should be received on or before September 9, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Lessee Construction Allowances for Short-Term Leases.

OMB Number: 1545–1661.

Regulation Project Number: REG–106010–98.

Abstract: The regulations provide guidance with respect to § 110, which provides a safe harbor whereby it will be assumed that a construction allowance provided by a lessor to a lessee is used to construct or improve lessor property when long-term property is constructed or improved and used pursuant to a short-term lease. The regulations ensures that both the lessee and lessor consistently treat the property subject to the construction allowance as nonresidential real property owned by the lessor.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Average Time Per Respondent: 1 hour.

Estimated Total Annual Reporting Burden: 10,000.

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: July 3, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–17334 Filed 7–9–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–941–86 and INTL–655–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–941–86, and temporary regulation, INTL–655–87 (TD 8178), Passive Foreign Investment Companies (§§ 1.1294–1T and 1.1297–3T).

DATES: Written comments should be received on or before September 9, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Passive Foreign Investment Companies.

OMB Number: 1545–1028.

Regulation Project Number: INTL–941–86 (Notice of Proposed Rulemaking); INTL–655–87 (Temporary regulation).

Abstract: These regulations specify how United States persons who are shareholders of passive foreign investment companies (PFICs) make elections with respect to their PFIC stock.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 275,000.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 112,500.

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: July 3, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–17356 Filed 7–9–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2002–43

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2002–43, Determination of Substitute Agent for a Consolidated Group.

DATES: Written comments should be received on or before September 9, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Determination of Substitute Agent for a Consolidated Group.

OMB Number: 1545–1793.

Revenue Procedure Number: Revenue Procedure 2002–43.

Abstract: Revenue Procedure 2002–43 provides any instructions that apply to any designation of a substitute agent, notification of the existence of a default substitute agent, a request for the designation of a substitute agent, and request for replacement of a previously designated substitute agent. The instructions also provide for the automatic approval of requests by a terminating common parent to designate its qualifying successor as a substitute agent.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200

Estimated Average Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material

in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 3, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–17357 Filed 7–9–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
July 10, 2002

Part II

National Aeronautics and Space Administration

14 CFR Parts 1260 and 1274

NASA Grant and Cooperative Agreement Handbook—Rewrite of Section D—Cooperative Agreements with Commercial Firms and Implementation of Section 319 of Public Law 106–391, Buy American Encouragement; Final Rule

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700–AC44

NASA Grant and Cooperative Agreement Handbook—Rewrite of Section D—Cooperative Agreements with Commercial Firms and Implementation of Section 319 of Public Law 106–391, Buy American Encouragement

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule, which adopts with changes the proposed rule published in the **Federal Register** on October 29, 2001. This final rule revises Section D, Cooperative Agreements with Commercial Firms, to clarify current management policies, incorporate process improvements, conform to recent changes in legislation, and institute risk management as part of source selection. This final rule also implements Section 319, Buy American encouragement, of the NASA Authorization Act of 2000.

EFFECTIVE DATE: July 10, 2002.

FOR FURTHER INFORMATION CONTACT: Rita Svarcas, Procurement Analyst, NASA Headquarters, Office of Procurement, Analysis Division (Code HC), Washington, DC 20546–0001, (202) 358–0464, or e-mail: *rsvarcas@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

This final rule provides a comprehensive revision to NASA grant and cooperative agreement policies codified at 14 CFR 1274, Grants and Cooperative Agreements with Commercial Firms. The revision was initiated by NASA as part of the Agency's effort to re-engineer its processes for awarding and administering grants and cooperative agreements. Changes are chiefly aimed at clarifying NASA policies for publication of requirements, evaluating and selecting proposals, and implementation of a process for managing the performance risks associated with certain types of cooperative agreements with commercial firms. Scientific breakthroughs based on NASA or NASA mission related projects have greatly benefited the American society, and the world as a whole. In realizing these successes, NASA's technological pursuits involve research and experimental projects, where risks are simply unavoidable. Some recognition of the risks and liability issues associated with some of these projects is reflected in recent legislation (section 431 of Public Law 105–276), which provides for NASA indemnification of the developers of experimental aerospace vehicles performing under Cooperative Agreements. This rewrite of NASA's Grant and Cooperative Agreement Handbook, implements a process that requires early identification, assessment, and management by NASA and the Recipient, of risk and safety issues associated with a given research project.

Additionally, the proposed rule promulgated the requirements of Section 319, ''Buy American Encouragement,'' of the NASA Authorization Act of 2000 (Public Law 106–391) for recipients of non-profit grants and cooperative agreements.

This final rule, adopts with changes the proposed rule published in the **Federal Register** (66 FR 54468) on October 29, 2001. No comments were received from industry. Comments were received from NASA field installations. All comments were considered in formulation of this final rule. Changes made in this final rule clarify existing requirements, correct references, reorganize material for clarity, and provide updated Uniform Resource Locator (URL) addresses. No comments were received on the change to 14 CFR 1260 implementing Section 319 of NASA's Authorization Act of 2000.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule primarily clarifies existing requirements and refocusing attention on risk management.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 14 CFR Parts 1260 and 1274

Grant Programs—Science and Technology.

Tom Luedtke,

Assistant Administrator for Procurement.

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

Accordingly, 14 CFR Chapter V is amended as follows:

1. The authority citation for 14 CFR part 1260 continues to read as follows:

Authority: 42 U.S.C. 2374 (c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A–110.

§ 1260.20 [Amended]

2. In section 1260.20, amend paragraphs (a), (d), (e), (f), and (h) by removing ''1260.38'' and adding ''1260.39'' in its place.

3. Add § 1260.39 to read as follows:

§ 1260.39 Buy American encouragement.

Buy American Encouragement

July 2002

(a) As stated in Section 319 of Public Law 106–391, the NASA Authorization Act of 2000, Recipients are encouraged to purchase only American-made equipment and products.

(b) The Recipient will observe property standards and provisions set forth in 1260.131 through 1260.137.

[End of Provision]

4. Revise Part 1274 to read as follows:

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

Subpart 1274.1—General

Sec.

1274.101 Purpose.
1274.102 Scope.
1274.103 Definitions.
1274.104 Effect on other issuances.
1274.105 Review requirements.
1274.106 Deviations.
1274.107 Publication of requirements.

Subpart 1274.2—Pre-Award Requirements

1274.201 Purpose.
1274.202 Methods of award.
1274.203 Solicitations/Cooperative Agreement Notices.
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Subpart 1274.3—Administration

1274.301 Delegation of administration.
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Subpart 1274.4—Property

1274.401 Government furnished property.
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1274.503 Codes of conduct.
1274.504 Competition.
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1274.506 Cost and price analysis.
1274.507 Procurement records.
1274.508 Contract administration.
1274.509 Contract provisions.
1274.510 Subcontracts.

Subpart 1274.6—Reports and Records

1274.601 Retention and access requirements for records.

Subpart 1274.7—Suspension or Termination

1274.701 Suspension or termination.

Subpart 1274.8—Post-Award/Administrative Requirements

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1274.910 Authority.
1274.911 Patent rights.
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1274.913 Patent rights—retention by the recipient (small business).
1274.914 Requests for waiver of rights—large business.
1274.915 Restrictions on sale or transfer of technology to foreign firms or institutions.
1274.916 Liability and risk of loss.
1274.917 Additional funds.
1274.918 Incremental funding.
1274.919 Cost principles and accounting standards.
1274.920 Responsibilities of the NASA Technical Officer.
1274.921 Publications and reports: non-proprietary research results.
1274.922 Suspension or termination.
1274.923 Equipment and other property.
1274.924 Civil rights.
1274.925 Subcontracts.
1274.926 Clean Air-Water Pollution Control Acts.
1274.927 Debarment and suspension and Drug-Free Workplace.
1274.928 Foreign national employee investigative requirements.
1274.929 Restrictions on lobbying.
1274.930 Travel and transportation.
1274.931 Electronic funds transfer payment methods.
1274.932 Retention and examination of records.
1274.933 Summary of recipient reporting.
1274.934 Safety.
1274.935 Security classification requirements.
1274.936 Breach of safety or security.
1274.937 Security requirements for unclassified information technology resources.
1274.938 Modifications.
1274.939 Application of Federal, State, and Local laws and regulations.
1274.940 Changes in recipient's membership.
1274.941 Insurance and indemnification.
1274.942 Export licenses.

Appendix to Part 1274—Listing of Exhibits

Exhibit A to Part 1274—Contract provisions
Exhibit B to Part 1274—Reports

Authority: 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451 *et seq.*

Subpart 1274.1—General

§ 1274.101 Purpose.

The following policy guidelines establish uniform requirements for NASA cooperative agreements awarded to commercial firms.

§ 1274.102 Scope.

(a) The business relationship between NASA and the recipient of a cooperative agreement differs from the relationship that exists between NASA and the recipient of a grant. Under the auspices of a grant, there is very little involvement and interaction between NASA and the grantee (other than a few administrative, funding, and reporting requirements, or in some cases matching of funds).

Under a cooperative agreement, because of its substantial involvement, NASA assumes a higher degree of responsibility for the technical performance outcomes and associated financial costs of research activities. In some cooperative agreement projects, NASA may be required to indemnify the recipient (to the extent authorized by Congress). While the principal purpose of NASA's involvement and commitment of resources is to stimulate or support research activity, a major incentive for involvement by commercial firms (particularly where costs are shared) is the profit potential from marketable products expected to result from the cooperative agreement project.

(b) Cooperative agreements (in areas or research relevant to NASA's mission) are ordinarily entered into with commercial firms to—

(1) Support research and development;

(2) Provide technology transfer from the Government to the recipient; or

(3) Develop a capability among U.S. firms to potentially enhance U.S. competitiveness.

(c) Projects that normally result in a cooperative agreement award to a commercial entity are projects that:

(1) Are not intended for the direct benefit of NASA;

(2) Are expected to benefit the general public;

(3) Require substantial cost sharing; and

(4) Have commercial applications and profit generating potential.

(d) The principal purpose of cooperative agreements is to stimulate research to benefit the general public through the criteria stated in paragraphs (a) through (c) of this section. Since all research activities must be within NASA's authorized expenditure of appropriations, there may be instances where NASA can derive incidental use or benefits while preserving the principal purpose of the cooperative agreement. However, a careful balance must be established and maintained in the cooperative agreement's technical and business objectives, so that the principal purpose of the project serves to benefit the general public (i.e., technology will transfer from the Government to the public and the commercial partner expects a marketable product to result). If a cooperative agreement is awarded when the proper award instrument should have been a contract (because the primary purpose of the award is for the direct benefit of NASA), the cooperative agreement award can be protested. Thus, before pursuing any incidental benefits that materialize under a cooperative agreement, NASA Centers should ensure that the advice of legal counsel is obtained.

§ 1274.103 Definitions.

Administrator. The Administrator or Deputy Administrator of NASA.

Agreement officer. A Government employee (usually a Contracting Officer or Grant Officer) who has been delegated the authority to negotiate, award, or administer the cooperative agreement. Most often Contracting Officers are delegated this authority for the more complex cooperative agreement projects.

Assistant Administrator for Procurement. The head of the Office of Procurement, NASA Headquarters (Code H).

Cash contributions. The cash invested in a given program or project by the Federal Government and/or recipient. The recipient's cash contributions may include money contributed by third parties.

Closeout. The process by which NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

Commercial item. The definition in FAR 2.101 is applicable.

Consortium. A consortium is a group of organizations that enter into an agreement to collaborate for the purposes of the cooperative agreement with NASA. The agreement to collaborate can take the form of a legal entity such as a partnership or joint venture but it is not necessary that such an entity be created. A consortium may be made up of firms that normally compete for commercial or Government business or may be made up of firms that perform complementary functions in a given industry.

Cooperative agreement. As defined by 31 U.S.C. 6305, cooperative agreements are financial assistance instruments used to stimulate or support activities for authorized purposes and in which the Government participates substantially in the performance of the effort. This Part 1274 covers only cooperative agreements with commercial firms where resource sharing is involved. Cooperative agreements with other types of organizations are covered by 14 CFR Part 1260.

Cooperative agreement notice (CAN). Publication on Federal Business Opportunities (FedBizOpps) or NASA Acquisition Internet Service (NAIS) websites advertising the solicitation of competitive proposals for the award of a cooperative agreement.

Cost sharing. Arrangement whereby the Government and the recipient share the funding requirements of a program or project at an agreed upon ratio or percentage (normally 50/50). Normally, the Government's payment of its share of the costs is contingent upon the accomplishment of tangible milestones (preferred method). Any payment arrangement that is based on a method other than the accomplishment of tangible milestones (e.g., a reimbursable arrangement where NASA pays a share of incurred costs, regardless of the accomplishment of tangible milestones) must be approved through the deviation process discussed in 1274.106.

Date of completion. The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

Days. Calendar days, unless otherwise indicated.

General purpose equipment. Equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

Government furnished equipment. Equipment in the possession of, or acquired directly by, the Government and subsequently delivered, or otherwise made available, to a recipient and equipment procured by the recipient with Government funds under a cooperative agreement. In most cases, Government furnished equipment will be counted as part of the Government's in-kind or non-cash contributions to the cooperative agreement for the purpose of determining the share ratio.

Incremental funding. A method of funding a cooperative agreement where the funds initially allotted to the cooperative agreement are less than the award amount. Additional funding is added as described in § 1274.918.

Non-cash or in-kind contributions. May be in the form of personnel resources (where cost accounting methods allow accumulation of such costs), real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program. Costs incurred by NASA to provide the services of one of its support contractors to perform part of NASA's requirements under a cooperative agreement shall be included as part of NASA's cost share, and will be counted as an in-kind contribution to the cooperative agreement.

Recipient. An organization receiving financial assistance under a cooperative agreement to carry out a project or program. A recipient may be an individual firm, including sole proprietor, partnership, corporation, or a consortium of business entities.

Resource contributions. The total value of resources provided by either party to the cooperative agreement including both cash and non-cash contributions.

Subcontracting dollar threshold. The dollar amount of the cooperative agreement subject to the small business subcontracting policies (includes small business, veteran-owned small business, service-disabled veteran-owned small business, historically underutilized small business, small disadvantaged business, women-owned business concerns, Historically Black Colleges and Universities, and minority educational institutions). For cooperative agreements, the dollar threshold to which the small business subcontracting policies apply, is established by the total amount of NASA's cash contributions.

Suspension. An action by NASA or the recipient that temporarily discontinues efforts under an award, pending corrective action or pending a decision to terminate the award.

Technical officer. The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a cooperative agreement. A Contracting Officer's Technical Representative may serve as a Technical Officer.

Termination. The cancellation of a cooperative agreement in whole or in part, by either party at any time prior to the date of completion.

§ 1274.104 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other non-regulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 1274.106.

§ 1274.105 Review requirements.

(a) Once the decision is made by a Headquarters program office or Center procurement personnel, to pursue the Cooperative Agreement Notice (CAN) process, for which the total NASA resources to be expended equal or exceed $10 million (cash plus non-cash contributions), a notification shall immediately be provided to the Assistant Administrator for Procurement (Code HS). The notification(s) shall be forwarded by the cognizant Headquarters program office or the Center procurement office (as applicable). For any CAN where NASA's *cash* contributions are expected to equal or exceed $10 million, Headquarters program office or Center procurement personnel shall also notify the Assistant Administrator for Small and Disadvantaged Business Utilization (Code K). All such notifications, as

described in paragraph (b) of this section, shall evidence concurrence by the cognizant Center Procurement Officer. These review requirements also apply where an unsolicited proposal is received from a commercial firm (or from a team of recipients where one of more team members is a commercial firm), and the planned award document is a cooperative agreement.

(b) The notification shall be accomplished by sending an electronic mail (e-mail) message to the following address at NASA Headquarters: *can@hq.nasa.gov.* The notification must include the following information, as a minimum—

(1) Identification of the cognizant Center and program office;

(2) Description of the proposed program for which proposals are to be solicited;

(3) Rationale for decision to use a CAN rather than other types of solicitations;

(4) The amount of Government funding to be available for award(s);

(5) Estimate of the number of cooperative agreements to be awarded as a result of the CAN;

(6) The percentage of cost-sharing to be required;

(7) Tentative schedule for release of CAN and award of cooperative agreements;

(8) If the term of the cooperative agreement is anticipated to exceed 3 years and/or if the Government cash contribution is expected to exceed $20M, address anticipated changes, if any, to the provisions (see § 1274.207); and

(9) If the cooperative agreement is for programs/projects that provide aerospace products or capabilities, (e.g., provision of space and aeronautics systems, flight and ground systems, technologies and operations), a statement that the requirements of NASA Policy Directive (NPD) 7120.4 and NASA Policy Guidance (NPG) 7120.5 have been met. This affirmative statement will include a specific reference to the signed Program Commitment Agreement.

(c) Code HS will respond by e-mail message to the sender, with a copy of the message to the Procurement Officer and the Office of Small and Disadvantaged Business Utilization, within five (5) working days of receipt of this initial notification. The response will address the following:

(1) Whether Code HS agrees or disagrees with the appropriateness for using a CAN for the effort described,

(2) Whether Code HS will require review and approval of the CAN before its issuance,

(3) Whether Code HS will require review and approval of the selected offeror's cost sharing arrangement (e.g., cost sharing percentage; type of contribution (cash, labor, etc.)).

(4) Whether Code HS will require review and approval of the resulting cooperative agreement(s).

(d) If a response from Code HS is not received within 5 working days of notification, the program office or Center may proceed with release of the CAN and award of the cooperative agreements as described.

(e) Before issuance, each field-generated CAN shall be approved by the installation director or designee, with the concurrence of the procurement officer. Each Headquarters generated CAN shall be approved by the cognizant Program Associate Administrator or designee, with concurrence of the Headquarters Offices of General Counsel (Code GK), External Relations (Code I), Safety & Mission Assurance (Code Q), and Procurement (Code HS).

§ 1274.106 Deviations.

(a) The Assistant Administrator for Procurement may grant exceptions for classes of, or individual cooperative agreements and deviations from the requirements of this Regulation when exceptions are not prohibited by statute.

(b) A deviation is required for any of the following:

(1) When a prescribed provision set forth in this regulation for use verbatim is modified or omitted.

(2) When a provision is set forth in this regulation, but not prescribed for use verbatim, and the installation substitutes a provision which is inconsistent with the intent, principle, and substance of the prescribed provision.

(3) When a NASA form or other form is prescribed by this regulation, and that form is altered or another form is used in its place.

(4) When limitations, imposed by this regulation upon the use of a provision, form, procedure, or any other action, are not adhered to.

(c) Requests for authority to deviate from this regulation will be forwarded to Headquarters, Program Operations Division (Code HS). Such requests, signed by the Procurement Officer, shall contain as a minimum—

(1) A full description of the deviation and identification of the regulatory requirement from which a deviation is sought;

(2) Detailed rationale for the request, including any pertinent background information;

(3) The name of the recipient and identification of the cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been re quested previously, and, if so, circumstances of the previous request(s); and

(5) A copy of legal counsel's concurrence or comments.

§ 1274.107 Publication of requirements.

Cooperative agreements may result from recipient proposals submitted in response to the publication of a NASA Research Announcement (NRA), a Cooperative Agreement Notice (CAN), or other Broad Agency Announcement (BAA). BAA's, NRA's and CAN's are normally promulgated through publicly accessible Government-wide announcements such as those published under the Federal Business Opportunities (FedBizOpps), and/or the NASA Acquisition Internet Service (NAIS). Prior to publicizing the CAN, see § 1274.105.

Subpart 1274.2—Pre-Award Requirements

§ 1274.201 Purpose.

This subpart provides pre-award guidance, prescribes forms and instructions, and addresses other pre-award matters.

§ 1274.202 Methods of award.

(a) *Competitive agreements.* Consistent with 31 U.S.C. 6301(3), NASA uses competitive procedures to award cooperative agreements whenever possible.

(b) *Awards using other than competitive procedures.* Solicitations for award of a Cooperative Agreement shall not be issued to, nor negotiations conducted with a single source unless—

(1) Use of such actions is documented in writing; and

(2) Concurrence and approvals are obtained. The dollar thresholds will be determined by the total value of the resources committed to the Cooperative Agreement (cash and quantifiable in-kind contributions).

§ 1274.203 Solicitations/cooperative agreement notices.

(a) Agreement officers should use every effort to issue draft pre-award cooperative agreement information. Any draft documentation released for comment shall contain all factors/subfactors. Draft documents should be as close to the final product as possible. Draft Cooperative Agreement Notices (CAN's) or Cooperative Agreements (CA) should include terms and conditions, special requirements and expected cash and non-cash (in-kind) contributions.

(1) Publication of draft documentation may serve to prevent unnecessary expenditure of resources and unproductive time that may be spent by NASA and potential recipients. Release of draft documentation also serves to assist NASA in refining program objectives and requirements, and maximizes the quality of research proposals submitted for formal evaluation and source selection.

(2) During the information gathering process, comments may be invited from potential recipients on all aspects of the draft documentation, including the requirements, schedules, proposal instructions and evaluation approaches. Potential recipients should be specifically requested to identify unnecessary or inefficient requirements. Comments should also be requested on any perceived safety, occupational health, security (including information technology security), environmental, export control, and/or other programmatic risk issues associated with performance of the CA.

(3) Agreement officers should include in the award schedule adequate time for the process to include industry review and comments, and NASA's evaluation and disposition of comments received.

(4) When providing draft documents for comment, the draft CAN shall advise interested parties that any issued draft documentation shall not be considered as a solicitation for award, and that NASA is not requesting proposals in response to the draft publication.

(5) Whenever feasible, agreement officers should include a summary of the disposition of significant comments when issuing the final CAN and/or CA.

(b) The evaluation section of the CAN shall notify potential recipients of the relative importance of factors, and any subfactors or other criteria that will be evaluated during the selection process.

(c) For its research projects, NASA may publish the expected project goals and objectives in terms of ''What'' the commercial recipient is expected to accomplish. The commercial recipient may be required to submit a proposed statement of work with its proposal stating ''How'' the recipient will accomplish the task(s). Depending on its importance to the success of the project, for some projects the recipient's statement of work may be included as an evaluation criterion for award. In these instances, the requirement for submission of the recipient's statement of work will be clearly identified as a subfactor or criterion that will be evaluated, and its relative weight or ranking in relation to other evaluation criteria shall be stated. In all cases, where the recipient submits a statement of work in response to NASA project objectives, NASA shall have final approval of the acceptability of the statement of work.

(d) Where performance-based milestone payments are planned, the potential recipient should be encouraged to suggest in its statement of work (which incorporates the project goals and objectives), or elsewhere in its proposal, terms and/or performance events upon which milestone payments can be negotiated.

(e) The CAN should provide a description and value for any quantifiable non-cash or in-kind Government resources (personnel, equipment, facilities, etc.), in addition to any cash funds that will be offered by the Government as part of its contributions to the cooperative agreement. As part of its proposal package, the recipient may also identify additional non-cash or in-kind resources it wishes NASA to contribute. The recipient shall verify the suitability of the requested resource(s) to the work to be performed under the cooperative agreement. Any additional verifiable and suitable non-cash or in-kind resources requested, shall be added to NASA's shared cost of performing the cooperative agreement, and may require increased cash or in-kind contributions from the recipient to meet its percentage of the cost share.

(f) To protect the integrity of the competitive process, upon release of the formal CAN the agreement officer shall direct that all personnel associated with the source selection refrain from communicating with prospective recipients and to refer all inquiries to the agreement officer or other authorized representative. The notification to potential recipients may be sent in any format (e.g., letter or electronic) appropriate to the complexity of the acquisition. It is not intended that all communication with potential recipients be terminated. Agreement officers should continue to provide information as long as it does not create an unfair competitive advantage or reveal proprietary data.

§ 1274.204 Costs and payments.

(a) *Cost allowability.* (1) Cooperative agreements awarded to commercial firms are subject to the cost accounting standards and principles of 48 CFR Chapter 99, as implemented by FAR Parts 30 and 31.

(2) If the recipient is a consortium which includes non-commercial entities as members, cost allowability for those members will be determined as follows:

(i) Allowability of costs incurred by state, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.''

(ii) The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.''

(iii) The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.''

(iv) The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(3) A recipient's method for accounting for the expenditure of funds must be consistent with generally accepted accounting principles.

(b) *Cost sharing.* (1) Given the mutually beneficial nature of, in particular, potential commercially marketable products expected to result from the research activities of the cooperative agreement, resource contributions are required from the recipient. The commercial recipient is expected to contribute at least 50 percent of the total resources necessary to accomplish the cooperative agreement effort. Recipient contributions may be cash, non-cash (in-kind) or both. Acceptable non-cash or in-kind resources include such items as equipment, facilities, labor, office space, etc. In determining the incentive to the recipient to share costs, agreement officers must consider a variety of factors. For example, while the future profitability of intellectual property may serve as an incentive for involvement of the commercial firm in the cooperative agreement, the actual or imputed value of such items as patent rights, data rights, trade secrets, etc., included in intellectual property is generally not considered a reliable source for computation of the recipient's contributions.

(2) In most cases these costs are not readily quantifiable. Thus, although the value of intellectual property rights should be factored into the incentive for the recipient to share at least 50 percent of costs, intellectual property rights do not serve as quantifiable amounts to determine the equitable dollar amounts of costs to be shared.

(3) As is expected from the commercial partner, the Government's cost share should reflect certain non-

cash as well as cash contributions to the most practicable extent possible. Where quantifiable, NASA will include in the calculation of the Government's cost share, non-cash or in-kind contributions, which includes the value of equipment, personnel, and facilities. Costs incurred by NASA to provide the services of one or more support contractors to perform part of NASA's requirements under a cooperative agreement will be counted as part of NASA's in-kind contributions. This approach is also supported by the initiative to implement full cost accounting methods within the Federal Government.

(4) When other Government agencies act as partners along with NASA (e.g., Department of Defense or Federal Aviation Administration), the resources contributed by any Government agency shall be counted as part of the Government's total cost share under the cooperative agreement.

(5) For every cooperative agreement, there should be evidence of the recipient's strong commitment and self-interest in the success of the research project. A very strong indicator of a recipient's self-interest is the willingness to commit to a meaningful level of cost sharing (i.e., 50 percent). Before considering whether it is impracticable for the recipient to share at least 50% of the performance costs, agreement officers should also consider whether other factors exist that demonstrate the recipient's financial stake or self-interest in the success of the cooperative agreement.

(6) In cases where a contribution of less than 50 percent is anticipated from the commercial recipient, approval of the Assistant Administrator for Procurement (Code HS) is required prior to award. The request for approval should address the evaluation factor in the solicitation and how the proposal accomplishes those objectives to such a degree that a share ratio of less than 50 percent is warranted.

(7) Once accepted for application to costs shared under the cooperative agreement, cash and in-kind contributions including Independent Research and Development (IR&D) costs, may not be included as contributions for any other federally assisted project or program.

(c) *Fixed funding.* (1) Cooperative agreements are funded by NASA through the disbursement of agreed upon fixed payment amounts to the recipient. NASA makes disbursement of funds to the recipient as ''Milestone payments'' discussed in paragraph (d) of this section. If the recipient achieves the final milestone, final payment is made, which completes NASA's financial responsibilities under the agreement.

(2) Fixed payments on a cooperative agreement are made by NASA based on the accomplishment by the recipient of predetermined tangible milestones. Any arrangement where payments are made on a basis other than accomplished tangible milestones must be approved in accordance with the requirements of § 1274.106 Deviations.

(3) If the cooperative agreement is terminated prior to achievement of all milestones, NASA's funding is limited to milestone payments already made plus NASA's share of costs incurred to meet commitments of the recipient, which had in the judgment of NASA become firm prior to the effective date of termination. In no event, however, shall the amount of NASA's share of these additional costs exceed the amount of the next scheduled milestone payment.

(d) *Milestone obligations and payments.* Agreement officers, technical officers, accounting and finance officials, and all other responsible NASA personnel shall ensure that funds for milestone payments are obligated, billed and expended in accordance with the guidance set forth by the NASA Financial Management Manual (FMM 9000).

(1) There must always be sufficient funds obligated to cover the next milestone payment. In addition, funds must be made available (but not necessarily obligated) to cover all milestone payments expected to be made during the current fiscal year of performance.

(2) Disbursement of funds to the recipient is based on the achievement of milestones or performance-related benchmarks. The milestone must represent the accomplishment of verifiable, significant event(s) and may not be based upon the mere passage of time or the performance of a particular level of effort. The Government technical officer must verify to and advise the agreement officer that each milestone has been achieved prior to authorizing the corresponding payment.

(3) The amount of funds to be disbursed by NASA in recognition of the achievement of milestones (''milestone payments'') shall be established consistent with the ratio of resource sharing agreed upon under the cooperative agreement (see paragraph (e)(2) of this section). While the schedule for milestone achievement must reflect the project being undertaken, the frequency should not be greater than one payment per month. For many projects, scheduling milestones to be accomplished about every 60 to 90 days appears to be most workable. Partial or interim milestone payments may not be made.

(4) The final milestone payment should be structured so that the associated payment is large enough to provide incentive to the recipient to complete its responsibilities under the cooperative agreement. Alternatively, funds may be reserved for disbursement after completion of the effort.

(e) *Incremental funding.* Whenever the period of performance for the cooperative agreement crosses fiscal years, the agreement shall be incrementally funded using appropriations from different fiscal years. In other circumstances, incremental funding may be appropriate. The total amount of funds obligated during the course of a fiscal year must be sufficient to cover the Government's share of the costs anticipated to be incurred by the recipient during that fiscal year. NASA may allot funds to an agreement at various times during a fiscal year in anticipation of the occurrence of costs. However, there must always be sufficient funds obligated to cover all milestone payments expected to be made during the current fiscal year.

(f) *Profit applicability.* Recipients shall not be paid a profit under cooperative agreements. Profit may be paid by the recipient to subcontractors, if the subcontractor is not part of the offering team and the subcontract is an arms-length relationship. All entities that are involved in performing the research and development effort that is the purpose of the cooperative agreement shall be part of the recipient's consortium and not subcontractors.

(g) *Independent Research and Development (IR&D) costs.* When determining the applicable dollar amounts or reasonableness of proposed IR&D costs to be included as part of the recipient's cost share, agreement officers should seek assistance from DCAA or the cognizant audit agency.

(1) In accordance with FAR 31.205–18(e), IR&D costs may include costs contributed by contractors in performing cooperative research and development agreements or similar arrangements, entered into under sections 203(c)(5) and (6) of the National Aeronautics and Space Act of 1958, as amended (42.U.S.C. 2473(c)(5) and (6)). IR&D costs incurred by a contractor pursuant to these types of cooperative agreements should be considered as allowable IR&D costs if the work performed would have been allowed as contractor IR&D had there been no cooperative arrangement.

(2) IR&D costs (or an agreed upon portion of IR&D costs) incurred by the recipient's organization and deemed by NASA as the same type of research being undertaken by the cooperative agreement between NASA and the recipient may serve as part of the recipient's contribution of shared costs under the cooperative agreement. When considering the use of IR&D costs as part of the recipient's cost share, the IR&D costs offered by the recipient shall meet the requirements of FAR 31.205–18. Any IR&D costs incurred in a prior period, and offered as part of the recipient's cost share shall meet the criteria established by FAR 31.205–18(d), Deferred IR&D Costs.

§ 1274.205 Consortia as recipients.

(a) The use of consortia as recipients for cooperative agreements is encouraged. Such arrangements tend to bring a broader range of capabilities and resources to the cooperative agreement. In addition, consortium members can better share the projects financial costs (e.g., the 50 percent recipient's cost share or other costs of performance).

(b) NASA enters into an agreement with only one entity (as identified by the consortium members). (Also see § 1274.940.) The inclusion of non-profit or educational institutions, small businesses, or small disadvantaged businesses in the consortium could be particularly valuable in ensuring that the results of the consortium's activities are disseminated.

(c) Key to the success of the cooperative agreement with a consortium is the consortium's Articles of Collaboration, which is a definitive description of the roles and responsibilities of the consortium's members. The Articles of Collaboration must designate a lead firm to represent the consortium and authority to sign on the consortium's behalf. It should also address to the extent appropriate—

(1) Commitments of financial, personnel, facilities and other resources;

(2) A detailed milestone chart of consortium activities;

(3) Accounting requirements;

(4) Subcontracting procedures;

(5) Disputes;

(6) Term of the agreement;

(7) Insurance and liability issues;

(8) Internal and external reporting requirements;

(9) Management structure of the consortium;

(10) Obligations of organizations withdrawing from the consortia;

(11) Allocation of data and patent rights among the consortia members

(12) Agreements, if any, to share existing technology and data;

(13) The firm that is responsible for the completion of the consortium's responsibilities under the cooperative agreement and has the authority to commit the consortium and receive payments from NASA, and address employee policy or other personnel issues.

(d) The consortium's charter or by-laws may be substituted for the Articles of Collaboration only if they are inclusive of all of the required information.

(e) An outline of the Articles of Collaboration should be required as part of the proposal and evaluated during the source selection process. Articles of Collaboration do not become part of the resulting cooperative agreement.

§ 1274.206 Metric Conversion Act.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. NASA's policy with respect to the metric measurement system is stated in NPD 8010.2, Use of the Metric System of Measurement in NASA Programs.

§ 1274.207 Extended agreements.

(a) Multiple year cooperative agreements are encouraged, but normally they should span no more than three years.

(b) The provisions set forth in § 1274.901 are generally considered appropriate for agreements not exceeding 3 years and/or a Government cash contribution not exceeding $20M. For cooperative agreements expected to be longer than 3 years and/or involve Government cash contributions exceeding $20M, consideration should be given to provisions which place additional restrictions on the recipient in terms of validating performance and accounting for funds expended.

§ 1274.208 Intellectual property.

(a) *Intellectual property rights.* A cooperative agreement covers the disposition of rights to intellectual property between NASA and the recipient. If the recipient is a consortium or partnership, rights flowing between multiple organizations in a consortium must be negotiated separately and formally documented, preferably in the Articles of Collaboration.

(b) *Rights in patents.* Patent rights clauses are required by statute and regulation. The clauses exist for recipients of the agreement whether they are—

(1) Other than small business or nonprofit organizations (generally referred to as large businesses) or

(2) Small businesses or nonprofit organizations.

(c) *Inventions.* There are five situations in which inventions may arise under a cooperative agreement—

(1) Recipient Inventions;

(2) Subcontractor Inventions;

(3) NASA Inventions;

(4) NASA Support Contractor Inventions; and

(5) Joint Inventions with Recipient.

(d) *Recipient inventions.* (1) A recipient, if a large business, is subject to section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) relating to property rights in inventions. The term ''invention'' includes any invention, discovery, improvement, or innovation. Title to an invention made under a cooperative agreement by a large business recipient initially vests with NASA. The recipient may request a waiver under the NASA Patent Waiver Regulations to obtain title to inventions made under the agreement. Such a request may be made in advance of the agreement (or 30 days thereafter) for all inventions made under the agreement. Alternatively, requests may be made on a case-by-case basis any time an individual invention is made. Such waivers are liberally and expeditiously granted after review by NASA's Invention and Contribution Board and approval by NASA's General Counsel. When a waiver is granted, any inventions made in the performance of work under the agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(2) A recipient, if a small business or nonprofit organization, may elect to retain title to its inventions. The term ''nonprofit organization'' is defined in 35 U.S.C. 201(i) and includes universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code. The Government obtains an irrevocable, nonexclusive, royalty-free license.

(e) *Subcontractor inventions*—(1) *Large business.* If a recipient enters into a subcontract (or similar arrangement) with a large business organization for experimental, developmental, research, design or engineering work in support of the agreement to be performed in the United States, its possessions, or Puerto Rico, section 305 of the Space Act applies. The clause applicable to large business organizations is to be used (suitably modified to identify the parties) in any subcontract. The

subcontractor may request a waiver under the NASA Patent Waiver Regulations to obtain rights to inventions made under the subcontract just as a large business recipient can (see paragraph (d)(1) of this section). It is strongly recommended that a prospective large business subcontractor contact the NASA installation Patent Counsel or Intellectual Property Counsel to assure that the right procedures are followed. Just like the recipient, any inventions made in the performance of work under the agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(2) *Non-profit organization or small business.* In the event the recipient enters into a subcontract (or similar arrangement) with a domestic nonprofit organization or a small business firm for experimental, developmental, or research work to be performed under the agreement, the requirements of 35 U.S.C. 200 et seq. regarding ''Patent Rights in Inventions Made With Federal Assistance,'' apply. The subcontractor has the first option to elect title to any inventions made in the performance of work under the agreement, subject to specific reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations that are specifically set forth.

(3) *Work outside the United States.* If the recipient subcontracts for work to be done outside the United States, its possessions or Puerto Rico, the NASA installation Patent Counsel or Intellectual Property Counsel should be contacted for the proper patent rights clause to use and the procedures to follow.

(4) Notwithstanding paragraphs (e)(1), (2), and (3) of this section, and in recognition of the recipient's substantial contribution, the recipient is authorized, subject to rights of NASA set forth elsewhere in the agreement, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the recipient may deem necessary; or

(ii) If unable to reach agreement pursuant to paragraph (e)(4)(i) of this section, request that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or nonprofit organization, or for all other organizations, request that such rights for the recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR 1245.1. The exercise of this exception does not change the flow down of the applicable patent rights clause to subcontractors. Applicable laws and regulations require that title to inventions made under a subcontract must initially reside in either the subcontractor or NASA, not the recipient. This exception does not change that. The exception does authorize the recipient to negotiate and reach mutual agreement with the subcontractor for the grant-back of rights. Such grant-back could be an option for an exclusive license or an assignment, depending on the circumstances.

(f) *NASA inventions.* NASA will use reasonable efforts to report inventions made by its employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under an agreement. Upon timely request, NASA will use its best efforts to a grant recipient first option to acquire either an exclusive or partially-exclusive, revocable, royalty-bearing license, on terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(g) *NASA support contractor inventions.* It is preferred that NASA support contractors be excluded from performing any of NASA's responsibilities under an agreement since the rights obtained by a NASA support contractor could work against the rights needed by the recipient. In the event NASA support contractors are tasked by NASA to work under the agreement and inventions are made by support contractor employees, the support contractor will normally retain title to its employee inventions in accordance with 35 U.S.C. 202, 14 CFR part 1245, and E.O. 12591. In the event the recipient decides not to pursue right to title in any such invention and NASA obtains title to such inventions, upon timely request, NASA will use its best efforts to grant the recipient first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(h) *Joint inventions.* (1) NASA and the recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA support contractors) and employees of Recipient. For large businesses, the Associate General Counsel (Intellectual Property) may agree that the United States will refrain, for a specified period, from exercising its undivided interest in a manner inconsistent with the recipient's commercial interest. For small business firms and nonprofit organizations, the Associate General Counsel (Intellectual Property) may agree to assign or transfer whatever rights NASA may acquire in a subject invention from its employee to the recipient as authorized by 35 U.S.C. 202(e). The agreement officer negotiating the agreement with small business firms and nonprofit organizations can agree, up front, that NASA will assign whatever rights it may acquire in a subject invention from its employee to the small business firm or nonprofit organization. Requests under this paragraph shall be made through the Center Patent Counsel.

(2) NASA support contractors may be joint inventors. If a NASA support contractor employee is a joint inventor with a NASA employee, the same provisions apply as those for NASA support contractor inventions (see paragraph (g) of this section). The NASA support contractor will retain or obtain nonexclusive licenses to those inventions in which NASA obtains title. If a NASA support contractor employee is a joint inventor with a recipient employee, the NASA support contractor and recipient will become joint owners of those inventions in which they have elected to retain title or requested and have been granted waiver of title. Where the NASA support contractor has not elected to retain title or has not been granted waiver of title, NASA will jointly own the invention with the Recipient.

(i) *Licenses to recipient(s).* (1) Any exclusive or partially exclusive commercial licenses are to be royalty-bearing consistent with Government-wide policy in licensing its inventions. It also provides an opportunity for royalty-sharing with the employee-inventor, consistent with Government-wide policy under the Federal Technology Transfer Act.

(2) Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, all recipients shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title. Because cooperative agreements are cost sharing cooperative arrangements with a purpose of benefiting the public by improving the competitiveness of the

recipient and the Government receives an irrevocable, nonexclusive, royalty-free license in each recipient subject invention, it is only equitable that the recipient receive, at a minimum, a revocable, nonexclusive, royalty-free license in NASA inventions and NASA contractor inventions where NASA has acquired title.

(3) Once a recipient has exercised its option to apply for an exclusive or partially exclusive license, a notice, identifying the invention and the recipient, is published in the Federal Register, providing the public opportunity for filing written objections for 60 days.

(j) *Preference for United States manufacture.* Despite any other provision, the recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. ''Manufactured substantially in the United States'' means the product must have over 50 percent of its components manufactured in the United States. This requirement is met if the cost to the recipient of the components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components required to make the product. In making this determination, only the product and its components shall be considered. The cost of each component includes transportation costs to the place of incorporation into the product and any applicable duty whether or not a duty-free entry certificate is issued. Components of foreign origin of the same class or kind for which determinations have been made in accordance with FAR 25.101(a) are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic. The intent of this provision is to support manufacturing jobs in the United States regardless of the status of the recipient as a domestic or foreign controlled company. However, in individual cases, the requirement to manufacture substantially in the United States, may be waived by the Assistant Administrator for Procurement (Code HS) upon a showing by the recipient that under the circumstances domestic manufacture is not commercially feasible.

(k) *Space Act agreements.* Invention and patent rights in cooperative agreements must comply with statutory and regulatory provisions. Where circumstances permit, a Space Act Agreement is available as an alternative instrument which can be more flexible in the area of invention and patent rights.

(l) *Data rights.* Data rights provisions can and should be tailored to best achieve the needs and objectives of the respective parties concerned.

(1) The data rights clause at § 1274.905 assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that ''proprietary'' information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of clauses may be appropriate.

(2) The primary question that must be answered when developing data clauses is what does each party need or intend to do with the data developed under the agreement. Accordingly, the data rights clauses may be tailored to fit the circumstances. Where conflicting goals of the parties result in incompatible data provisions, agreement officers for the Government must recognize that private companies entering into cooperative agreements bring resources to that relationship and must be allowed to reap an appropriate benefit for the expenditure of those resources. However, since serving a public purpose is a major objective of a cooperative agreement, care must be exercised to ensure the recipient is not established as a long term sole source supplier of an item or service and is not in a position to take unfair advantage of the results of the cooperative agreement. Therefore, a reasonable time period (i.e., depending on the technology, two to five years after production of the data) may be established after which the data first produced by the recipient in the performance of the agreement will be made public.

(3) Data can be generated from different sources and can have various restrictions placed on its dissemination. Recipient data furnished to NASA can exist prior to, or be produced outside of, the agreement or be produced under the agreement. NASA can also produce data in carrying out its responsibilities under the agreement. Each of these areas must be covered.

(4) For data, including software, first produced by the recipient under the agreement, the recipient may assert copyright. Data exchanged with a notice showing that the data is protected by copyright must include appropriate licenses in order for NASA to use the data as needed.

(5) Recognizing that the dissemination of the results of NASA's activities is a primary objective of a cooperative agreement, the parties should specifically delineate what results will be published and under what conditions. This should be set forth in the clause of the cooperative agreement entitled ''Publication and Reports: Non-Proprietary Research Results.'' Any such agreement on the publication of results should be stated to take precedence over any other clause in the cooperative agreement.

(6) Section 1274.905(b)(3) requires the recipient to provide NASA a government purpose license for data first produced by the Recipient that constitutes trade secrets or confidential business or financial information. NASA and the recipient shall determine the scope of this license at the time of award of the cooperative agreement. In addition to the purposes given as examples in § 1274.905(b)(3), the license should provide NASA the right to use this data under a separate cooperative agreement or contract issued to a party other than the recipient for the purpose of continuing the project in the event the cooperative agreement is terminated by either party.

(7) In accordance with section 303(b) of the Space Act, any data first produced by NASA under the agreement which embodies trade secrets or financial information that would be privileged or confidential if it had been obtained from a private participant, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to five years (the maximum allowed by law). This does not apply to data other than that for which there has been agreement regarding publication or distribution. The period of time during which data first produced by NASA is maintained in confidence should be consistent with the period of time determined in accordance with paragraph (h)(2) of this section, before which data first produced by the recipient will be made public. Also, NASA itself may use the marked data (under suitable protective conditions) for agreed-to purposes.

§ 1274.209 Evaluation and selection.

(a) *Factor development.* The agreement officer, along with the NASA evaluation team has discretion to determine the relevant evaluation criteria based upon the project requirements, and the goals and objectives of the cooperative agreement.

(b) *Communications during non-competitive awards.* For cooperative agreements awarded non-competitively (see § 1274.202(b)), there are no

restrictions on communications between NASA and the recipient. In addition, there is no requirement for the development and publication of formal evaluation or source selection criteria.

(c) *Communications during competitive awards.* As discussed in § 1274.203(c), when a competitive source selection process will be followed to select the recipient, an appropriate level of care shall be taken by NASA personnel in order to protect the integrity of the source selection process. Therefore, upon release of the formal cooperative agreement notice (CAN), the agreement officer shall direct all procurement personnel associated with the source selection to refrain from communicating with prospective recipients and that all inquiries be referred to the agreement officer, or other authorized representative.

(d) *Selection factors and subfactors.* (1) At a minimum, the selection process for the competitive award of cooperative agreements to commercial entities shall include evaluation of potential recipients' proposals for merit and relevance to NASA's mission requirements through their responses to the publication of NASA evaluation factors. The evaluation factors should include technical and management capabilities (mission suitability), past performance, and proposed costs (including proposed cost share).

(2) For programs that may involve potentially hazardous operations related to flight, and/or mission critical ground systems, NASA's selection factors and subfactors shall provide for evaluation of the recipient's proposed approach to managing risk (e.g., technology being applied or developed, technical complexity, performance specifications and tolerances, delivery schedule, etc.).

(3) As part of the evaluation process, the factors, subfactors, or other criteria should be tailored to properly address the requirements of the cooperative agreement.

(e) *Other factors and subfactors.* Other factors and subfactors may include—

(1) The composition or appropriateness of the business relationship of proposed team members or consortium, articles of collaboration, participation of an appropriate mix of small business, veteran-owned small business, service-disabled veteran-owned small business, historically underutilized small business, small disadvantaged business, and women-owned business concerns, as well as non-profits and educational institutions, including historically black colleges and universities and minority institutions).

(2) Other considerations may include enhancing U.S. competitiveness, developing a capability among U.S. firms, identification of potential markets, appropriateness of business risks.

(f) *Proposal evaluation.* The proposals shall be evaluated in accordance with the criteria published in the CAN. Proposals selected for award will be supported by documentation as described in 1274.211(b). When evaluation results in a proposal not being selected, the proposer will be notified in accordance with the CAN.

(g) *Technical evaluation.* The technical evaluation of proposals may include peer reviews. Because the business sense of a cooperative agreement proposal is critical to its success, NASA may reserve the right to utilize appropriate outside evaluators to assist in the evaluation of such proposal elements as the business base projections, the market for proposed products, and/or the impact of anticipated product price reductions.

(h) *Cost/price evaluation.* (1) Prior to award of a cooperative agreement, agreement officers shall ensure that proposed costs are accurate and reasonable. In order to do so, cost and pricing data may be required. The level of cost and pricing data to be requested shall be commensurate with the analysis necessary to reach agreement on overall proposed project costs. The evaluation of costs shall lead to the determination and verification of total project costs to be shared by NASA and the recipient, as well as establishment of NASA's milestone payment schedule based on its 50 percent cost share. The guidance at FAR 15.4 and NFS 1815.4 can assist in determining whether cost and pricing data are necessary and the level of analysis required. While competition may be present (i.e., more than one proposal is received), in most cases companies are proposing competing technologies and varying approaches that reflect very different methods (and accompanying costs) to satisfy NASA's project objectives. Consequently, this type of competitive environment is very different from an environment where competitive proposals are submitted in response to a request for proposals leading to award of a contract for relatively well-defined program or project requirements.

(2) During evaluation of the cost proposal, the agreement officer, along with other NASA evaluation team members and/or pricing support personnel, shall determine the reasonableness of the overall proposed project costs, including verifying the value of the recipient's proposed non-cash and in-kind contributions. Commitments should be obtained and verified to the extent practicable from the recipient or any associated team members, from which proposed contributions will be made.

(3) If the recipient's proposed contributions include application of IR&D costs, see § 1274.204(g).

(i) *Awards to foreign governments and firms.* (1) An award may not be made to a foreign government. However, if selected as the best available source, an award may be made to a foreign firm. If a proposal is selected from a foreign firm sponsored by their respective government agency, or from entities considered quasi-governmental, approval must be obtained from Headquarters, Program Operations Division (Code HS). Such requests must include detailed rationale for the selection, to include the funding source of the foreign participant. The approval of the Assistant Administrator for Procurement is required to exclude foreign firms from submitting proposals. Award to a foreign firm shall be on a no-exchange-of-funds basis (see NPD 1360.2).

(2) The Office of External Affairs (Code I), shall be notified prior to any announcement of intent to award to a foreign firm. Additionally, pursuant to section 126 of Pub. L. 106–391, as part of the evaluation of costs and benefits of entering into an obligation to conduct a space mission in which a foreign entity will participate as a supplier of the spacecraft, spacecraft system, or launch system, NASA shall solicit comment on the potential impact of such participation, through notice published in the FedBizOpps or NAIS.

(j) *Safe-guarding proposals.* Competitive proposal information shall be protected in accordance with FAR 15.207, Handling proposals and information. Unsolicited proposals shall be protected in accordance with FAR 15.608, Prohibitions, and FAR 15.609, Limited use of data.

(1) Evaluation team members, the source selection authority, and agreement officers are responsible for protecting sensitive information on the award of a grant or cooperative agreement and for determining who is authorized to receive such information. Sensitive information includes: information contained in proposals; information prepared for NASA's evaluation of proposals; the rankings of proposals for an award; reports and evaluations of source selection panels, boards, or advisory councils; and other information deemed sensitive by the source selection authority or by the agreement officer.

(2) No sensitive information shall be disclosed to persons not on the

evaluation team or evaluation panel, unless the Selecting Official or the agreement officer has approved disclosure based upon an unequivocal ''need-to-know'' and the individual receiving the information has signed a Non-Disclosure Certificate. All attendees at formal source selection presentations and briefings shall be required to sign an Attendance Roster and a Disclosure Certificate. The attendance rosters and certificates shall be maintained in official files for a minimum of six months after award.

(3) The improper disclosure of sensitive information could result in criminal prosecution or an adverse action.

(k) *Controls on the use of outside evaluators.* The use of outside evaluators shall be approved in accordance with NFS 1815.207–70(b). A cover sheet with the following legend shall be affixed to data provided to outside evaluators:

Government Notice for Handling Proposals

This proposal shall be used and disclosed for evaluation purposes only, and a copy of this Government notice shall be applied to any reproduction or abstract thereof. Any authorized restrictive notices which the submitter places on this proposal shall also be strictly complied with.

(l) *Printing, binding, and duplicating.* Proposals for efforts that involve printing, binding, and duplicating in excess of 25,000 pages are subject to the regulations of the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO) to ensure compliance with NPD 1490.1. The Agreement Officer will be advised in writing of the results of the ICPMO review.

§ 1274.210 Unsolicited proposals.

(a) For a proposal to be considered a valid unsolicited proposal, the submission must—

(1) Be innovative and unique;

(2) Be independently originated and developed by the recipient;

(3) Be prepared without Government supervision, endorsement, direction or direct Government involvement;

(4) Include sufficient technical and cost detail to permit a determination that Government support could be worthwhile and the proposed work could benefit the agency's research and development or other mission responsibilities; and

(5) Not be an advance proposal for a known agency requirement that can be acquired by competitive methods.

(b) For each unsolicited proposal selected for award, the cognizant technical office will prepare and furnish to the Agreement Officer, a justification for acceptance of an unsolicited proposal (JAUP). The JAUP shall be submitted for the approval of the agreement officer after review and concurrence at a level above the technical officer. The evaluator shall consider the following factors, in addition to any others appropriate for the particular proposal:

(1) Unique and innovative methods, approaches or concepts demonstrated by the proposal.

(2) Overall scientific or technical merits of the proposal.

(3) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(4) The qualifications, capabilities, and experience of the proposed key personnel who are critical in achieving the proposal objectives.

(5) Current, open solicitations under which the unsolicited proposal could be evaluated.

(c) Unsolicited proposals shall be handled in accordance with NFS 1815.606, ''Agency Procedures''.

(d) Unsolicited proposals from foreign sources are subject to NPD 1360.2, ''Development of International Cooperation in Space and Aeronautics Programs''.

(e) There is no requirement for a public announcement of the award of a cooperative agreement. In addition, there is no requirement for announcement of awards resulting from unsolicited proposals. However, in those instances where a public announcement is planned and the award is the result of an unsolicited proposal, in addition to the requirements of NFS 1805.303–71(a)(3), NASA personnel must take measures that ensure protection of the data and intellectual property rights of submitters of unsolicited proposals as provided by FAR 5.202(a)(8).

(f) Additional information regarding unsolicited proposals is available in the handbook entitled, ''Guidance for the Preparation and Submission of Unsolicited Proposals'', which is available on the NASA Acquisition Internet Service Website at: *http://ec.msfc.nasa.gov/hq/library/unSol-Prop.html.*

§ 1274.211 Award procedures.

(a) In accordance with NFS 1805.303–71(a)(3), the NASA Administrator shall be notified at least five (5) workdays prior to a planned public announcement for award of a cooperative agreement (regardless of dollar value), if it is thought the agreement may be of significant interest to Headquarters.

(b) For awards that are the result of a competitive source selection, the technical officer will prepare and furnish to the agreement officer a signed selection statement based on the selection criteria stated in the solicitation.

(1) *Bilateral award.* All cooperative agreements shall be awarded on a bilateral basis.

(2) *Consortium awards.* If the cooperative agreement is to be awarded to a consortium, a completed, formally executed Articles of Collaboration is required prior to award.

(c) *Central Contractor Registration (CCR).* Prior to implementation of the Integrated Financial Management (IFM) System at each center, all grant and cooperative agreement recipients are required to register in the Department of Defense (DOD) Central Contractor Registration (CCR) database. Registration is required in order to obtain a Commercial and Government Entity (CAGE) code, which will be used as a grant and cooperative agreement identification number for the new system. The agreement officer shall verify that the prospective awardee is registered in the CCR database using the DUNS number or, if applicable, the DUNS+4 number, via the Internet at *http://www.ccr2000.com* or by calling toll free: 888–227–2423, commercial: 616–961–5757.

(d) *Certifications, Disclosures, and Assurances.* (1) Agreement officers are required to ensure that all necessary certifications, disclosures, and assurances have been obtained prior to awarding a cooperative agreement.

(2) Each new proposal shall include a certification for debarment and suspension under the requirements of 14 CFR 1265.510 and 1260.117.

(3) Each new proposal for an award exceeding $100,000 shall include a certification, and a disclosure form (SF LLL) if required, on Lobbying under the requirements of 14 CFR 1271.110 and 1260.117.

(4) Unless a copy is on file at the NASA center, recipients must furnish an assurance on NASA Form (NF) 1206 on compliance with Civil Rights statutes specified in 14 CFR parts 1250 through 1253.

§ 1274.212 Document format and numbering.

(a) *Formats.* Agreement officers shall use NF 1687A (available via the Internet at *https://extranet.hq.nasa.gov/nef/user/form_search.cfm),* with minimum modification, as the standard cooperative agreement cover page for the award of all cooperative agreements.

(b) *Cooperative agreement numbering system.* Cooperative agreement numbering may be changed once the Integrated Financial Management (IFM) is implemented. Until IFM is implemented, cooperative agreement numbering shall conform to NFS 1804.7102, except that a NCC prefix will be used in lieu of the NAS prefix. Along with the prefix NCC, a one or two digit Center Identification Number, and a sequence number of up to five digits will be used. Inclusive of the prefix and fiscal year, the total number of characters, digits, and spaces cannot exceed 11.

§ 1274.213 Distribution of cooperative agreements.

Copies of cooperative agreements and modifications will be provided to: payment office, technical officer, administrative agreement officer when delegation has been made (particularly when administrative functions are delegated to DOD or another agency), NASA Center for Aerospace Information (CASI), Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076, and any other appropriate recipient. Copies of the statement of work, contained in the recipient's proposal and accepted by NASA, will be provided to the administrative agreement officer and CASI. The cooperative agreement file will contain a record of the addresses for distributing agreements and supplements.

§ 1274.214 Inquiries and release of information.

NASA personnel shall follow the procedures established in NFS 1805.402 prior to releasing information to the news media or the general public. The procedures established by NFS 1805.403 shall be followed when responding to inquiries from members of Congress.

Subpart 1274.3—Administration

§ 1274.301 Delegation of administration.

Cooperative agreements may be administered by the awarding activity or the awarding activity may obtain additional administration services in accordance with the procedures provided by NFS 1842.202. NASA Form 1678, NASA Technical Officer Delegation for Cooperative Agreements with Commercial Firms, will be used to delegate responsibilities to the NASA Technical Officer.

§ 1274.302 Transfers, novations, and change of name agreements.

(a) *Transfer of cooperative agreements.* Novation is the only means by which a cooperative agreement may be transferred from one recipient to another.

(b) *Novation and change of name.* NASA legal counsel shall review, for legal sufficiency, all novation agreements or change of name agreements of the recipient, prior to formal execution by the agreement officer.

Subpart § 1274.4—Property

§ 1274.401 Government furnished property.

Property or equipment owned by the Government that will be used in the performance of a cooperative agreement shall be included as part of the Government's percentage (usually 50 percent) of shared costs. In most cases the property or equipment will be categorized as non-cash contributions. Agreement officers may use the procedures promulgated by FAR Subpart 45.2, as guidelines to calculate the value of the property or equipment.

§ 1274.402 Contractor acquired property.

As provided in § 1274.923(c), title to property acquired with government funds vests in the government. Under a cost shared cooperative agreement, joint ownership of property equal to the cost-sharing ratio will result if the parties make no specific arrangements regarding such property. The disposition of acquired property should be addressed in the cooperative agreement at the time of award. The cooperative agreement may provide that all such property be contributed by the recipient as a non-cash contribution. A reasonable dollar value must be specified and adequately supported. In this case, title will vest in the recipient. Alternatively, NASA and the recipient may include in the cooperative agreement any other appropriate arrangement for the disposition of acquired property upon completion of the effort.

Subpart 1274.5—Procurement Standards

§ 1274.501 Purpose of procurement standards.

(a) The procurement standards stated in §§ 1274.502 through 1274.510, may not apply to or may supplement the procedures of a commercial recipient that has a purchasing system approved in accordance with the requirements of FAR Subpart 44.3 and NFS 1844.3.

(b) Sections 1274.502 through 1274.510 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

§ 1274.502 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to NASA, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 1274.503 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 1274.504 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and

free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall normally be excluded from competing for such procurements, unless conflicts or apparent conflicts of interest issues have been resolved. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 1274.505 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide at a minimum, that the conditions in paragraphs (a)(1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following:

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured.

In competitive procurements, such a description shall not contain features that unduly restrict competition.

(ii) Requirements that the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small business, veteran-owned small business, service-disabled veteran-owned small business, historically underutilized small business, small disadvantaged business, women-owned business concerns, Historically Black Colleges and Universities, and minority educational institutions as subcontractors to the maximum extent practicable. Recipients of NASA awards shall take all of the following steps to further this goal.

(1) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts.

(2) Consider in the contract process whether firms competing for larger contracts intend to subcontract with these businesses and institutions.

(3) Encourage contracting with consortiums or teams of these businesses and institutions when a contract is too large for one of these firms to handle individually.

(4) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by 14 CFR part 1265, the implementation of Executive Orders 12549 and 12689, Debarment and Suspension.

(e) Recipients shall, on request, make available for NASA, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in NASA's implementation of this subpart.

(2) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ''brand name'' product.

(4) The proposed award over the simplified acquisition threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the simplified acquisition threshold.

§ 1274.506 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicies, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 1274.507 Procurement records.

Procurement records and files for purchases in excess of the simplified acquisition threshold shall include the following at a minimum:

(a) Basis for contractor selection.

(b) Justification for lack of competition when competitive bids or offers are not obtained.

(c) Basis for award cost or price.

§ 1274.508 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow-up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 1274.509 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts:

(a) Contracts in excess of the simplified acquisition threshold (currently $100,000) shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, NASA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(d) For Construction and facility improvements, except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, NASA may accept the bonding policy and requirements of the recipient, provided NASA has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described in this section, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, ''Surety companies doing business with the United States.''

§ 1274.510 Subcontracts.

Recipients (individual firms or consortia) are not authorized to issue grants or cooperative agreements to subrecipients. All entities that are involved in performing the research and development effort that is the purpose of the cooperative agreement shall be part of the recipient's consortium and not subcontractors. All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Exhibit A to this part, as applicable and may be subject to approval requirements cited in § 1274.925.

Subpart 1274.6—Reports and Records

§ 1274.601 Retention and access requirements for records.

(a) This subpart sets forth requirements for record retention and access to records for awards to recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final invoice. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by NASA, the 3-year retention requirement is not applicable to the Recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc., as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by NASA.

(d) NASA shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, NASA may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) NASA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of Recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, NASA shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when NASA can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to NASA.

(g) *Indirect cost rate proposals, cost allocations plans, etc.,* applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the recipient submits to NASA or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the recipient is not required to submit to NASA or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period)

covered by the proposal, plan, or other computation.

Subpart 1274.7—Suspension or Termination

§ 1274.701 Suspension or termination.

(a) *Suspension.* NASA or the recipient may suspend the cooperative agreement for a mutually agreeable period of time, if an assessment is required to determine whether the agreement should be terminated.

(b) *Termination.* (1) A cooperative agreement provides both NASA and the recipient the ability to terminate the Agreement if it is in their best interests to do so, by giving the other party prior written notice. Upon receipt of a notice of termination, the receiving party shall take immediate steps to stop the accrual of any additional obligations, which might require payment.

(2) NASA may, for example, terminate the Agreement if the recipient is not making anticipated technical progress, if the recipient materially changes the objectives of the agreement, or if appropriated funds are not available to support the program.

(3) Similarly, the recipient may terminate the agreement if, for example, technical progress is not being made, if the commercial recipient shifts its technical emphasis, or if other technological advances have made the effort obsolete.

(4) If the cooperative agreement is terminated by either NASA or the recipient and NASA elects to continue the project with a party other than the recipient, the right of the government to use data first produced by either NASA or the recipient in the performance of this agreement is covered by 1274.905(b). See § 1274.208(l)(6) to assure that appropriate language is contained in § 1274.905(b).

Subpart 1274.8—Post-Award/ Administrative Requirements

§ 1274.801 Adjustments to performance costs.

In order to accomplish program objectives, there may be occasions where additional contributions (cash and/or in-kind contributions) by NASA and the recipient beyond the initial agreement may be needed. There may also be occasions where actual costs of NASA and the recipient may be less than initially agreed. In cases where program costs are adjusted, prior to execution of a modification to the agreement, mutual agreement between NASA and the recipient shall also be reached on the corresponding changes in program requirements such as schedule, work statements and milestone payments. Funding for any work required beyond the initial funding level of the cooperative agreement, shall require submission by the recipient of a detailed proposal to the agreement officer. Prior to execution of a modification increasing NASA's initial cost share or funding levels, detailed cost analysis techniques may be applied, which may include requests for audits services and/or application of other pricing support techniques. Any adjustments or modifications that result in a change to the performance costs of the cooperative agreement shall continue to maintain the share ratio requirements (normally 50/50) stated in § 1274.204(b).

§ 1274.802 Modifications.

Modifications to the cooperative agreement in particular, modifications that affect funding, milestone payments, program schedule and statement of work requirements shall be executed on a bilateral basis.

§ 1274.803 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the cooperative agreement, all financial, performance, and other reports as required by the terms and conditions of the award. Extensions may be approved when requested by the recipient.

(b) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with § 1274.923.

§ 1274.804 Subsequent adjustments and continuing responsibilities.

The closeout of an award does not affect any of the following:

(a) Audit requirements in § 1274.932.

(b) Government Furnished and Contractor Acquired Property requirements in §§ 1274.401 and 1274.402.

(c) Records retention as required in § 1274.601.

Subpart 1274.9—Other Provisions and Special Conditions

§ 1274.901 Other provisions and special conditions.

Where applicable, the provisions set forth in this subpart are to be incorporated in and made a part of all cooperative agreements with commercial firms. When included, the provisions at § 1274.902 through § 1274.909 and the provisions at § 1274.933 through § 1274.942 are to be incorporated in full text substantially as stated in this regulation. When required, the provisions at § 1274.910 through § 1274.932, may be incorporated by reference in an enclosure to each cooperative agreement. For inclusion of provisions in subcontracts, see Exhibit A of this part, and § 1274.925.

§ 1274.902 Purpose.

Purpose

July 2002

The purpose of this cooperative agreement is to conduct a shared resource project that will lead to_____. This cooperative agreement will advance the technology developments and research which have been performed on_____. The specific objective is to_____. This work will culminate in_____.

[End of Provision]

§ 1274.903 Responsibilities.

Responsibilities

July 2002

(a) This Cooperative Agreement will include substantial NASA participation during performance of the effort. NASA and the Recipient agree to the following Responsibilities, a statement of cooperative interactions to occur during the performance of this effort. NASA and the Recipient shall exert all reasonable efforts to fulfill the responsibilities stated below.

(b) NASA Responsibilities. The following NASA responsibilities are hereby set forth effective upon the start date, which unless stated otherwise, shall be the execution date of this bilateral Cooperative Agreement. The end date stated below, may be changed by a written bilateral modification:

Responsibilities Start Date End Date

(c) Recipient Responsibilities. The Recipient shall be responsible for particular aspects of project performance as set forth in the technical proposal dated_____, attached hereto (or Statement of Work dated_____, attached hereto). The following responsibilities are hereby set forth effective upon the start date, which unless stated otherwise, shall be the execution date of this bilateral Cooperative Agreement. The end date stated below, may be changed by a written bilateral modification:

Responsibilities Start Date End Date

(d) Since NASA contractors may obtain certain intellectual property rights arising from work for NASA in support of this agreement, NASA will inform Recipient whenever NASA intends to use NASA contractors to perform technical engineering services in support of this agreement.

(e) Unless the Cooperative Agreement is terminated by the parties, end date can only be changed by execution of a bilateral modification.

[End of Provision]

§ 1274.904 Resource sharing requirements.

Resource Sharing Requirements

July 2002

Where NASA and other Government agencies are involved in the cooperative

agreement, ''NASA'' shall also mean ''Federal Government''.

(a) NASA and the Recipient will share in providing the resources necessary to perform the agreement. NASA funding and non-cash contributions (personnel, equipment, facilities, etc.) and the dollar value of the Recipient's cash and/or non-cash contribution will be on a_____ (NASA)—_____ (Recipient) basis. Criteria and procedures for the allowability and allocability of cash and non-cash contributions shall be governed by FAR Parts 30 and 31, and NFS Parts 1830 and 1831.

(b) The Recipient's share shall not be charged to the Government under this Agreement or under any other contract, grant, or cooperative agreement, except to the extent that the Recipient's contribution may be allowable IR&D costs pursuant to FAR 31.205–18(e).

[End of Provision]

§ 1274.905 Rights in data.

As noted in § 1274.208(l)(1), the following provision assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that ''proprietary'' information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of provisions may be appropriate. The Agreement Officer is expected to complete and/or select the appropriate bracketed language under the provision for those paragraphs dealing with data first produced under the cooperative agreement. In addition, the Agreement Officer may, in consultation with the Center's Patent or Intellectual Property Counsel, tailor the provision to fit the particular circumstances of the program and/or the recipient's need to protect specific proprietary information.

Rights in Data

July 2002

(a) Definitions.

''Data,'' means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.

(b) Data categories.

(1) *General.* Data exchanged between NASA and Recipient under this cooperative agreement will be exchanged without restriction as to its disclosure, use or duplication except as otherwise provided below in this provision.

(2) *Background Data.* In the event it is necessary for Recipient to furnish NASA with Data which existed prior to, or produced outside of, this cooperative agreement, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions) only for the purpose of carrying out NASA's responsibilities under this cooperative agreement. Upon completion of activities under this agreement, such Data will be disposed of as requested by Recipient.

(3) *Data first produced by Recipient.* In the event Data first produced by Recipient in carrying out Recipient's responsibilities under this cooperative agreement is furnished to NASA, and Recipient considers such Data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence for a period of [insert ''two'' to ''five''] years after development of the data and be disclosed and used by [''NASA'' or ''the Government,'' as appropriate] and its contractors (under suitable protective conditions) only for [insert appropriate purpose; for example: experimental; evaluation; research; development, etc.] by or on behalf of [''NASA'' or ''the Government'' as appropriate] during that period. In order that [''NASA'' or the ''Government'', as appropriate] and its contractors may exercise the right to use such Data for the purposes designated above, NASA, upon request to the Recipient, shall have the right to review and request delivery of Data first produced by Recipient. Delivery shall be made within a time period specified by NASA.

(4) *Data first produced by NASA.* As to data first produced by NASA in carrying out NASA's responsibilities under this cooperative agreement and which Data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it had been obtained from the Recipient, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to ( ) years [INSERT A PERIOD UP TO 5 YEARS] after development of the information, with the express understanding that during the aforesaid period such Data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such Data to any third party without NASA's written approval until the aforementioned restricted period expires. Use of this data under a separate cooperative agreement or contract issued to a party other than the Recipient for the purpose of continuing the project in the event this cooperative agreement is terminated by either party shall constitute a government purpose.

(5) *Copyright.* (i) In the event Data is exchanged with a notice indicating the Data is protected under copyright as a published copyrighted work, or are deposited for registration as a published work in the U.S. Copyright Office, the following paid-up licenses shall apply:

(A) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this agreement, the receiving party and others acting on its behalf, may reproduce, distribute, and prepare derivative works for the purpose of carrying out the receiving party's responsibilities under this cooperative agreement; and

(B) If the furnished Data does not contain the indication of paragraph (b)(5)(i)(A) of this section, it will be assumed that the Data was first produced under this agreement, and the receiving party and others acting on its behalf, shall be granted a paid up, nonexclusive, irrevocable, world-wide license for all such Data to reproduce, distribute copies to the public, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the receiving party. For Data that is computer software, the right to distribute shall be limited to potential users in the United States.

(ii) When claim is made to copyright, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship to the data when and if the data are delivered to the Government.

(6) *Oral and visual information.* If information which the Recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to NASA, such information must be reduced to tangible, recorded form (i.e., converted into Data as defined herein), identified and marked with a suitable notice or legend, and furnished to NASA within 10 days after such oral or visual disclosure, or NASA shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

(7) *Disclaimer of liability.* Notwithstanding the above, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of:

(i) Data not identified with a suitable notice or legend as set in paragraph (b)(2) of this section; nor

(ii) Information contained in any Data for which disclosure and use is restricted under paragraphs (b)(2) or (3) of this section, if such information is or becomes generally known without breach of the above, is known to or is generated by NASA independently of carrying out responsibilities under this agreement, is rightfully received from a third party without restriction, or is included in data which Participant has, or is required to furnish to the U.S. Government without restriction on disclosure and use.

(c) *Marking of data.* Any Data delivered under this cooperative agreement, by NASA or the Recipient, shall be marked with a suitable notice or legend indicating the data was generated under this cooperative agreement.

(d) *Lower tier agreements.* The Recipient shall include this provision, suitably modified to identify the parties, in all

subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

[End of Provision]

§ 1274.906 Designation of New Technology Representative and Patent Representative.

Designation of New Technology Representative and Patent Representative

July 2002

(a) For purposes of administration of the clause of this cooperative agreement entitled ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)'' or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' the following named representatives are hereby designated by the Agreement Officer to administer such clause:

Title	Office code	Address
New Technology Representative Patent Representative		

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)'' clause or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' clause, unless otherwise authorized or directed by the Agreement Officer. The respective responsibilities and authorities of the above-named representatives are set forth in NFS 1827.305–370.

[End of Provision]

§ 1274.907 Disputes.

Disputes

July 2002

(a) In the event that a disagreement arises, representatives of the parties shall enter into discussions in good faith and in a timely and cooperative manner to seek resolution. If these discussions do not result in a satisfactory solution, the aggrieved party may seek a decision from the Dispute Resolution Official under paragraph (b) of this provision. This request must be presented no more than (3) three months after the events giving rise to the disagreement have occurred.

(b) The aggrieved party may submit a written request for a decision to the Center Ombudsman, who is designated as the Dispute Resolution Official. The written request shall include a statement of the relevant facts, a discussion of the unresolved issues, and a specification of the clarification, relief, or remedy sought. A copy of this written request and all accompanying materials must be provided to the other party at the same time. The other party shall submit a written position on the matters in dispute within thirty (30) calendar days after receiving this notification that a decision has been requested. The Dispute Resolution Official shall conduct a review of the matters in dispute and render a decision in writing within thirty (30) calendar days of receipt of such written position.

[End of Provision]

§ 1274.908 Milestone payments.

Milestone Payments

July 2002

(a) By submission of the first invoice, the Recipient is certifying that it has an established accounting system which complies with generally accepted accounting principles, with the requirements of this agreement, and that appropriate arrangements have been made for receiving, distributing, and accounting for Federal funds received under this agreement.

(b) Payments will be made upon the following milestones: [The schedule for payments may be based upon the Recipient's completion of specific tasks, submission of specified reports, or whatever is appropriate.]

Date	Payment Milestone	Amount

(c) Upon submission by the recipient of invoices in accordance with the provisions of the agreement and upon certification by NASA of completion of the payable milestone, the Agreement Officer shall authorize payment. Payment shall be made within 30 calendar days after receipt of proper invoice. Payment shall be considered as being made on the date of electronic funds transfer. A proper invoice must include the following:

(i) Name and address of the recipient.

(ii) Invoice date (The Recipient is encouraged to date invoices as close as possible to the date of the mailing or transmission).

(iii) Cooperative agreement number.

(iv) Description, milestone, and extended price of efforts/tasks performed.

(v) Payment terms.

(vi) Name and address of Recipient official to whom payment is to be sent. (Must be the same as that in the cooperative agreement or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of the person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the cooperative agreement.

(ix) Taxpayer identification number (TIN).

(x) While not required, the recipient is strongly encouraged to assign an identification number to each invoice.

(d) A payment milestone may be successfully completed in advance of the date appearing in paragraph (b) of this section. However, payment shall not be made prior to that date without the written consent of the Agreement Officer.

(e) The recipient is not entitled to partial payment for partial completion of a payment milestone.

(f) Unless approved by the Agreement Officer, all preceding payment milestones must be completed before payment can be made for the next payment milestone.

(g) (i) If the Recipient is authorized to submit invoices directly to the NASA paying office, the original invoice should be submitted to:

[Insert the mailing address for submission of cost vouchers]

(ii) If the Recipient is not authorized to submit invoices directly to the NASA paying office, the original invoice should be submitted to the Agreement Officer for certification.

(iii) Copies of the recipient's invoice should be submitted to the following offices:

(A) Copy 1—NASA Agreement Officer.

(B) Copy 2—Auditor.

(C) Copy 3—Contract administration office.

(D) Copy 4—Project management office.

(E) Copy 5—Other recipients as designated by the Agreement Officer.

[End of Provision]

§ 1274.909 Term of agreement.

Term of Agreement

July 2002

(a) The agreement commences on the effective date indicated on the attached cover sheet and continues until the expiration date indicated on the attached cover sheet unless terminated by either party. If all resources are expended prior to the expiration date of the agreement, the parties have no obligation to continue performance and may elect to cease at that point. The parties may extend the expiration date if additional time is required to complete the milestones at no increase in Government resources. Requests for approval for no-cost extensions must be forwarded to the NASA Agreement Officer no later than ten days prior to the expiration of the award to be considered.

(b) Provisions of this Agreement, which, by their express terms or by necessary implication, apply for periods of time other than that specified as the agreement term, shall be given effect, notwithstanding expiration of the term of the agreement.

[End of Provision]

§ 1274.910 Authority.

Authority

July 2002

This is a cooperative agreement as defined in 31 U.S.C. 6305 (the Chiles Act) and is

entered into pursuant to the authority of 42 U.S.C. 2451, *et seq.* (the Space Act).

[End of Provision]

§ 1274.911 Patent rights.

Patent Rights

July 2002

(a) Definitions. (1) *Administrator* means the Administrator or Deputy Administrator of NASA.

(2) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(3) *Made* when used in relation to any invention means the conception or first actual reduction to practice such invention.

(4) *Nonprofit organization* means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) *Practical application* means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) *Recipient* means:

(i) The signatory Recipient party or parties or;

(ii) The Consortium, where a Consortium has been formed for carrying out Recipient responsibilities under this agreement.

(7) *Small Business Firm* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.901 through 121.911 will be used.)

(8) *Subject Invention* means any invention of a Recipient and/or Government employee conceived or first actually reduced to practice in the performance of work under this Agreement.

(9) *Manufactured substantially in the United States* means the product must have over 50 percent of its components manufactured in the United States. This requirement is met if the cost to the Recipient of the components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components required to make the product. (In making this determination only the product and its components shall be considered.) The cost of each component includes transportation costs to the place of incorporation into the product and any applicable duty (whether or not a duty-free entry certificate is issued). Components of foreign origin of the same class or kind for which determinations have been made in accordance with FAR 25.102(a)(3) and (4) are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

(b) *Allocation of principal rights.*—(1) *Recipient Inventions.* For other than Small Business Firm or Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY RECIPIENT (LARGE BUSINESS)'' provision applies. For Small Business Firm and Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY RECIPIENT (SMALL BUSINESS)'' provision applies.

(2) *NASA Inventions.* NASA will use reasonable efforts to report inventions made by NASA employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under this cooperative agreement and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, on terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(i) of this section. Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(3) *NASA Contractor Inventions.* In the event NASA contractors are tasked to perform work in support of specified NASA activities under this cooperative agreement and inventions are made by contractor employees, the recipient will normally retain title to its employee inventions in accordance with 35 U.S.C. 202, 14 CFR Part 1245, and E.O. 12591. In the event the recipient decides not to pursue right to title in any such invention and NASA obtains title to such inventions, NASA will use reasonable efforts to report such inventions and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(ii) of this section. Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(4) *Joint NASA and Recipient Inventions.* NASA and Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA contractors) and employees of Recipient.

(i) For other than small business firms and nonprofit organizations the Administrator may agree that the United States will refrain from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest and to cooperate with Recipient in obtaining patent protection on its undivided interest on any waived inventions subject, however, to the condition that Recipient makes its best efforts to bring the invention to the point of practical application at the earliest practicable time. In the event that the Administrator determines that such efforts are not undertaken, the Administrator may void NASA's agreement to refrain from exercising its undivided interest and grant licenses for the practice of the invention so as to further its development. In the event that the Administrator decides to void NASA's agreement to refrain from exercising its undivided interest and grant licenses for this reason, notice shall be given to the Inventions and Contributions Board as to why such action should not be taken. Either alternative will be subject to the applicable license or licenses reserved in paragraph (b)(5) of this section.

(ii) For small business firms and nonprofit organization, NASA may assign or transfer whatever rights it may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e).

(5) *Minimum rights reserved by the Government.* Any license or assignment granted Recipient pursuant to paragraphs (b)(2), (b)(3), or (b)(4) of this section will be subject to the reservation of the following licenses:

(i) As to inventions made solely or jointly by NASA employees, the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the United States; and

(ii) As to inventions made solely by, or jointly with, employees of NASA contractors, the rights in the Government of the United States as set forth in paragraph (b)(5)(i) of this section, as well as the revocable, nonexclusive, royalty-free license in the contractor as set forth in 14 CFR 1245.108.

(6) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Assistant Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property

upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(7) Work performed by the Recipient under this cooperative agreement is considered undertaken to carry out a public purpose of support and/or stimulation rather than for acquiring property or services for the direct benefit or use of the Government. Accordingly, such work by the Recipient is not considered ''by or for the United States'' and the Government assumes no liability for infringement by the Recipient under 28 U.S.C. 1498.

[End of Provision]

§ 1274.912 Patent rights—retention by the recipient (large business).

Patent Rights—Retention by the Recipient (Large Business)

July 2002

(a) *Definitions.*

(1) *Administrator*, as used in this clause, means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

(2) *Invention*, as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(3) *Made*, as used in relation to any invention, means the conception or first actual reduction to practice such invention.

(4) *Nonprofit organization*, as used in this clause, means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) *Practical application,* as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each, case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) *Reportable item,* as used in this clause, means any invention, discovery, improvement, or innovation of the Recipient, whether or not the same is or may be patentable or otherwise protectable under Title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under this contract or in the performance of any work that is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

(7) *Small business firm,* as used in this clause, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.901 through 121.911 will be used.)

(8) *Subject invention,* as used in this clause, means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq*).

(9) *Manufactured substantially in the United States* means the product must have over 50 percent of its components manufactured in the United States. This requirement is met if the cost to the Recipient of the components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components required to make the product. (In making this determination only the product and its components shall be considered.) The cost of each component includes transportation costs to the place of incorporation into the product and any applicable duty (whether or not a duty-free entry certificate is issued). Components of foreign origin of the same class or kind for which determinations have been made in accordance with Federal Acquisition Regulation 25.102(a)(3) and (4) are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

(b) *Allocation of principal rights*—(1) *Presumption of title.*

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) (hereinafter called ''the Act''), and the above presumption shall be conclusive unless at the time of reporting the reportable item the Recipient submits to the Agreement Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Recipient may nevertheless file the statement described in paragraph (b)(1)(i) of this section. The Administrator will review the information furnished by the Recipient in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Recipient whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(2) *Property rights in subject inventions.* Each subject invention for which the presumption of paragraph (b)(1)(i) of this section is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this section.

(3) *Waiver of rights.* (i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, have adopted the Presidential memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR part 1245, subpart 1, Recipients may petition, either prior to execution of the Agreement or within 30 days after execution of the Agreement, for advance waiver of rights to any or all of the inventions that may be made under an Agreement. If such a petition is not submitted, or if after submission it is denied, the Recipient (or an employee inventor of the Recipient may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this section or within such longer period as may be authorized in accordance with 14 CFR 1245.105. Further procedures are provided in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(c) *Minimum rights reserved by the Government.* (1) With respect to each Recipient subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves—

(i) An irrevocable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Recipient.* (1) The Recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Recipient subject invention and any resulting patent in which the Government acquires title, unless the Recipient fails to disclose the subject invention within the times specified in paragraph (e)(2) of this section. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR part 1245, subpart 3, Licensing of NASA Inventions. This

license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Recipient will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with 14 CFR 1245.112, any decision concerning the revocation or modification of its license.

(e) *Invention identification, disclosures, and reports.* (1) The Recipient shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Recipient personnel responsible for the administration of this clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Recipient shall furnish the Agreement Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Recipient will disclose each reportable item to the Agreement Officer within two months after the inventor discloses it in writing to Recipient personnel responsible for the administration of this clause or, if earlier, within six months after the Recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to the agency shall be in the form of a written report and shall identify the Agreement under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Recipient for such invention.

(3) The Recipient shall furnish the Agreement Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Agreement Officer) from the date of the Agreement, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by paragraph (e)(1) of this section have been followed.

(ii) A final report, within three months after completion of the work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Recipient agrees, upon written request of the Agreement Officer, to furnish additional technical and other information available to the Recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Recipient agrees, subject to 48 CFR (FAR) 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Examination of records relating to inventions.* (1) The Agreement Officer or any authorized representative shall, pursuant to the Retention and Examination of Records provision of this cooperative agreement, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Recipient has established and maintained the procedures required by paragraph (e)(1) of this section; and

(iii) The Recipient and its inventors have complied with the procedures.

(2) If the Agreement Officer learns of an unreported Recipient invention that the Agreement Officer believes may be a subject inventions, the Recipient may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Agreement Officer, the Recipient shall—

(i) Include this Clause Patent Rights—Retention by the Recipient—(Large Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause Patent Right—Retention by the Recipient—(Small Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Agreement Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Agreement Officer.

(3) The Recipient shall promptly notify the Agreement Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Agreement Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause of paragraph (g)(1)(i) or (1)(ii) of this section, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section, that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances.* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed

subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition.* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, sec. 305). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 3). A subcontractor requesting a waiver must follow the procedures set forth in the attached clause REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS.

(h) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Assistant Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(i) *March-in rights.* The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

[End of Provision]

§ 1274.913 Patent rights—retention by the recipient (small business).

Patent Rights—Retention by the Recipient (Small Business)

July 2002

(a) *Definitions.*

(1) *Invention,* as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(2) *Made,* as used in this clause, when used in relation to any invention means the conception or first actual reduction to practice such invention.

(3) *Nonprofit organization,* as used in this clause, means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(4) *Practical application,* as used in this clause, means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(5) *Small business firm,* as used in this clause, means a small business concern as defined at Section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.901 through 121.911 will be used.

(6) *Subject invention,* as used in this clause, means any invention of the Subcontractor conceived or first actually reduced to practice in the performance of work under this Agreement.

(7) *Manufactured substantially in the United States* means the product must have over 50 percent of its components manufactured in the United States. This requirement is met if the cost to the Recipient of the components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components required to make the product. (In making this determination only the product and its components shall be considered.) The cost of each component includes transportation costs to the place of incorporation into the product and any applicable duty (whether or not a duty-free entry certificate is issued). Components of foreign origin of the same class or kind for which determinations have been made in accordance with FAR 25.102(a)(3) and (4) are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

(b) *Allocation of principal rights.* The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention disclosure, election of title, and filing of patent application by Recipient.*

(1) The Recipient will disclose each subject invention to NASA within two months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying NASA within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application of six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure election, and filing under paragraphs (c)(1), (2), and (3) of this section may, at the discretion of the agency, be granted.

(d) *Conditions when the Government may obtain title.* The Recipient will convey to NASA, upon written request, title to any subject invention—

(1) If the Recipient fails to disclose or elect title to the subject invention within the times

specified in paragraph (c) of this section, or elects not to retain title; provided, that the agency may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in paragraph (c) of this section; provided, however, that if the Recipient has filed a patent application in a country after the times specified in paragraph (c) of this section, but prior to its receipt of the written request of the Federal agency, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum rights to Recipient and protection of the Recipient right to file.*

(1) The Recipient will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in paragraph (c) of this section. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Subcontractor has achieved practical application and continues to make the benefits of the invention reasonable accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Subcontractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by NASA for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and 14 CFR Subpart 1245.1, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Recipient action to protect the Government's interest.* (1) The Recipient agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to:

(i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Subcontractor elects to retain title, and,

(ii) convey title to the Federal agency when requested under paragraph (d) of this section and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under contract in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this section, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this section. The Recipient shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify NASA of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention the following statement, ''This invention was made with Government support under (identify the agreement) awarded by NASA. The Government has certain rights in the invention.''

(5) The Recipient shall provide the Agreement Officer the following:

(i) A listing every 12 months (or such longer period as the Agreement Officer may specify) from the date of the Agreement, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the Agreement listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number, and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the Recipient has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a co-inventor.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Agreement Officer, the Recipient shall—

(i) Include this clause (Patent Rights—Retention by the Recipient (Small Business)), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization; and

(ii) Include in all other subcontracts, regardless of tier, for experimental, developmental, or research work the patent rights clause (Patent Rights—Retention by the Recipient (Large Business).

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Agreement Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Agreement Officer.

(3) The Recipient shall promptly notify the Agreement Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Agreement Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause under paragraph (g)(1)(i) or (g)(1)(ii) of this section, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to—

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract office:

(A) *Exceptional circumstances.* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed

subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition.* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, sec. 305). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 3). A subcontractor requesting a waiver must follow the procedures set forth in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(h) *Reporting on utilization of subject inventions.* The Recipient agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the agency may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding under-taken by the agency in accordance with paragraph (i) of this section. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the Government without permission of the Recipient.

(i) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Assistant Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this section has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special provisions for Agreements with nonprofit organizations.* If the Recipient is a nonprofit organization, it agrees that—

(1) Rights to a subject invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has one of its primary functions the management of inventions; *provided,* that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NASA deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; *provided* that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Recipient could take reasonable steps to more effectively implement the requirements of this paragraph.

(l) *Documentation submissions.* A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications, or similar material bearing on patent matters, shall be sent to the installation Patent Counsel in addition to any other submission requirements in the cooperative agreement. If any reports contain information describing a ''subject invention'' for which the Recipient has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, in order for a patent application to be filed, provided that the Recipient identify the information and the ''subject invention'' to which it relates at the time of submittal. If required by the Agreement Officer, the Recipient shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any ''subject invention'' in any country in which the Recipient has applied for patents.

[End of Provision]

§ 1274.914 Requests for waiver of rights—large business.

Requests for Waiver of Rights—Large Business

July 2002

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, waiver of rights to any or all inventions made or that may be made under a NASA agreement, contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Advance waiver of rights to any or all inventions that may be made under a contract or subcontract may be requested prior to the execution of the agreement, contract or subcontract, or within 30 days after execution by the selected Recipient. In addition, waiver of rights to an identified invention made and reported under a agreement, contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator and shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address, and telephone number of the counsel; the signature of the petitioner or authorized representative; and the date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individual identified invention; whether foreign rights are also requested and, if so, the countries, and a citation of the specific Section or Sections of the regulations under which such rights are requested; and the name, address, and telephone number of the party with whom to communicate when the request is acted upon. Requests for advance waiver of rights should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) Petitions for advance waiver, prior to agreement execution, must be submitted to the Agreement Officer. All other petitions will be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a agreement will be forwarded by the Contracting or Officer to

the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Agreement Officer of the Administrator's determination. The Agreement Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the agreement. In the latter event, the petitioner will be so notified by the Agreement Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

[End of Provision]

§ 1274.915 Restrictions on sale or transfer of technology to foreign firms or institutions.

Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions

July 2002

(a) The parties agree that access to technology developments under this Agreement by foreign firms or institutions must be carefully controlled. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology. Transfers include:

(1) Sales of products or components,

(2) Licenses of software or documentation related to sales of products or components, or

(3) Transfers to foreign subsidiaries of the Recipient for purposes related to this Agreement.

(b) The Recipient shall provide timely notice to the Agreement Officer in writing of any proposed transfer of technology developed under this Agreement. If NASA determines that the transfer may have adverse consequences to the national security interests of the United States, or to the establishment of a robust United States industry, NASA and the Recipient shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

[End of Provision]

§ 1274.916 Liability and risk of loss.

The following provision is applicable to all cooperative agreements with commercial firms, except programs or projects that are subject to Section 431 of Public Law 105–276, which addresses insurance for, or indemnification of, developers of experimental aerospace vehicles.

Liability and Risk of Loss

July 2002

(a) With regard to activities undertaken pursuant to this agreement, neither party shall make any claim against the other, employees of the other, the other's related entities (e.g., contractors, subcontractors, etc.), or employees of the other's related entities for any injury to or death of its own employees or employees of its related entities, or for damage to or loss of its own property or that of its related entities, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) To the extent that a risk of damage or loss is not dealt with expressly in this agreement, each party's liability to the other party arising out of this Agreement, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages.

[End of Provision]

§ 1274.917 Additional funds.

Additional Funds

July 2002

Pursuant to this Agreement, NASA is providing a fixed amount of funding for activities to be undertaken under the terms of this cooperative agreement. NASA is under no obligation to provide additional funds. Under no circumstances shall the Recipient undertake any action which could be construed to imply an increased commitment on the part of NASA under this cooperative agreement.

[End of Provision]

§ 1274.918 Incremental funding.

Incremental Funding

July 2002

(a) Of the award amount indicated on the cover page of this Agreement, only the obligated amount indicated on the cover page of this agreement is available for payment. NASA may supplement the Agreement, as required, until it is fully funded. Any work beyond the funding limit will be at the recipient's risk.

(b) These funds will be obligated as appropriated funds become available without any action required of the Recipient. NASA is not obligated to make payments in excess of the total funds obligated.

[End of Provision]

§ 1274.919 Cost principles and accounting standards.

Cost Principles and Accounting Standards

July 2002

The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient (See clause entitled ''Resource Sharing Requirements'') shall be governed by the FAR cost principles implemented by FAR Parts 30, 31, and 48 CFR part 99. (If the Recipient is a consortium which includes non-commercial firm members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'')

[End of Provision]

§ 1274.920 Responsibilities of the NASA technical officer.

Responsibilities of the NASA Technical Officer

July 2002

(a) The NASA Agreement Officer and Technical Officer for this cooperative agreement are identified on the cooperative agreement cover sheet.

(b) The Agreement Officer shall serve as NASA's authorized representative for the administrative elements of all work to be performed under the agreement.

(c) The Technical Officer shall have the authority to issue written Technical Advice which suggests redirecting the project work (e.g., by changing the emphasis among different tasks), or pursuing specific lines of inquiry likely to assist in accomplishing the effort. The Technical Officer shall have the authority to approve or disapprove those technical reports, plans, and other technical information the Recipient is required to submit to NASA for approval. The Technical Officer is not authorized to issue and the Recipient shall not follow any Technical Advice which constitutes work which is not contemplated under this agreement; which in any manner causes an increase or decrease in the resource sharing or in the time required for performance of the project; which has the effect of changing any of the terms or conditions of the cooperative agreement; or which interferes with the Recipient's right to perform the project in accordance with the terms and conditions of this cooperative agreement. In the event of perceived interference, dispute resolution procedures apply as set forth in 1274.907.

[End of Provision]

§ 1274.921 Publications and reports: non-proprietary research results.

The requirements set forth under this provision may be modified by the Agreement Officer based on specific report needs for the particular grant or cooperative agreement.

Publications and Reports: Non-Proprietary Research Results

July 2002

(a) NASA encourages the widest practicable dissemination of research results at all times during the course of the investigation consistent with the other terms of this agreement.

(b) All information disseminated as a result of the cooperative agreement shall contain a statement which acknowledges NASA's support and identifies the cooperative agreement by number.

(c) Prior approval by the NASA Technical Officer is required only where the Recipient requests that the results of the research be published in a NASA scientific or technical publication. Two copies of each draft publication shall accompany the approval request.

(d) Reports shall contain full bibliographic references, abstracts of publications and lists of all other media in which the research was discussed. The Recipient shall submit the following technical reports:

(1) A progress report for every year of the cooperative agreement (except the final year). Each report is due 60 days before the anniversary date of the cooperative agreement and shall describe research accomplished during the report period.

(2) A summary of research is due by 90 days after the expiration date of the cooperative agreement, regardless of whether or not support is continued under another cooperative agreement. This report is intended to summarize the entire research accomplished during the duration of the cooperative agreement.

(e) Progress reports and summaries of research shall display the following on the first page:

(1) Title of the cooperative agreement.

(2) Type of report.

(3) Period covered by the report.

(4) Name and address of the Recipient's organization.

(5) Cooperative agreement number.

(f) An original and two copies, one of which shall be of suitable quality to permit micro-reproduction, shall be sent as follows:

(1) Original—Agreement Officer.

(2) Copy—Technical Officer

(3) Micro-reproducible copy—NASA Center for Aerospace Information (CASI), Parkway Center, Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076.

[End of Provision]

§ 1274.922 Suspension or termination.

Suspension or Termination

July 2002

(a) This cooperative agreement may be suspended or terminated in whole or in part by the Recipient or by NASA after consultation with the other party. With prior written notice, NASA may terminate the agreement, for example, if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, if the Recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program.

(b) Upon fifteen (15) days written notice to the other party, either party may temporarily suspend the cooperative agreement, pending corrective action or a decision to terminate the cooperative agreement. The notice should express the reasons why the agreement is being suspended.

(c) In the event of termination by either party, the Recipient shall not be entitled to additional funds or payments except as may be required by the Recipient to meet NASA's share of commitments which had in the judgment of NASA become firm prior to the effective date of termination and are otherwise appropriate. In no event, shall these additional funds or payments exceed the amount of the next payable milestone billing amount.

[End of Provision]

§ 1274.923 Equipment and other property.

Equipment and Other Property

July 2002

(a) Under no circumstances shall cooperative agreement funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR (FAR) 45.301), or to procure passenger carrying vehicles.

(b) Contractor acquired equipment or property used in performance of the Cooperative Agreement shall be controlled in accordance with 48 CFR (FAR) 45.6.

(c) The government shall have title to equipment and other personal property acquired with government funds. Such property shall be disposed of pursuant to 48 CFR (FAR) 45.603. The Recipient shall have title to equipment and other personal property acquired with Recipient funds. Such property shall remain with the Recipient at the conclusion of the cooperative agreement. Under a shared cost arrangement, the Government and the Recipient have joint ownership of acquired property in accordance with the cost share ratio. Jointly owned property shall be disposed of as agreed to by the parties.

(d) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government prior to completion of the work) will remain with the Government.

(e) The Recipient shall establish and maintain property management standards for Government property and otherwise manage such property as set forth in 48 CFR (FAR) 45.5 and 48 CFR (NFS) 1845.5.

(f) Recipients shall submit annually a NASA Form 1018, NASA Property in the Custody of Contractors, in accordance with the instructions on the form, the provisions of 48 CFR (NFS) 1845.71 and any supplemental instructions that may be issued by NASA for the current reporting period. The original NF 1018 shall be submitted to the center Deputy Chief Financial Officer, Finance, with three copies sent concurrently to the center Industrial Property Officer. The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 31. Negative reports (i.e. no reportable property) are required. The information contained in the reports in entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 31. A final report is required within 30 days after expiration of the agreement.

(g) As of the date of this rewrite, process changes have been made to facilitate electronic submission of NF 1018. Recipients may use the procedures established by NASA Procurement Notice (PN) 97–64, issued on August 9, 2001.

[End of Provision]

§ 1274.924 Civil rights.

Civil Rights

July 2002

Work on NASA cooperative agreements is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000d–l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and the NASA implementing regulations (14 CFR parts 1250, 1251, 1252 and 1253).

[End of Provision]

§ 1274.925 Subcontracts.

Subcontracts

July 2002

(a) Recipients are not authorized to issue grants or cooperative agreements.

(b) NASA Agreement Officer consent is required for subcontracts over[dollar threshold inserted by Agreement Officer] and/or subcontracts for [critical systems, subsystems, components, or services inserted by Agreement Officer and Cognizant NASA Project Office]_____.

(c) If not submitted by the Recipient and accepted by NASA in the original proposal. The Recipient shall provide the following information to the Agreement Officer:

(1) A copy of the proposed subcontract.

(2) Basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) Basis for award cost or award price.

(d) The Recipient shall utilize small business, veteran-owned small business, service-disabled veteran-owned small business, historically underutilized small business, small disadvantaged business, women-owned business concerns, Historically Black Colleges and Universities, and minority educational institutions as subcontractors to the maximum extent practicable.

(e) All entities that are involved in performing the research and development effort that is the purpose of the cooperative agreement shall be part of the Recipient's consortium and not subcontractors.

[End of Provision]

§ 1274.926 Clean Air-Water Pollution Control Acts.

Clean Air-Water Pollution Control Acts

July 2002

If this cooperative agreement or supplement thereto is in excess of $100,000, the Recipient agrees to notify the Agreement Officer promptly of the receipt, whether prior or subsequent to the Recipient's acceptance of this cooperative agreement, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this cooperative agreement or any subcontract thereunder is under consideration to be listed on the EPA ''List of Violating Facilities'' published pursuant to 40 CFR 15.20. By acceptance of a cooperative agreement in excess of $100,000, the Recipient—

(a) Stipulates that any facility to be utilized thereunder is not listed on the EPA ''List of Violating Facilities'' as of the date of acceptance;

(b) Agrees to comply with all requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq*. as amended by Public Law 91–604) and section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq*. as amended by Public Law 92–500) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned sections, as well as all regulations and guidelines issued thereunder after award of and applicable to the cooperative agreement; and

(c) Agrees to include the criteria and requirements of this clause in every subcontract hereunder in excess of $100,000, and to take such action as the Contracting or Grant Officer may direct to enforce such criteria and requirements.

[End of Provision]

§ 1274.927 Debarment and suspension and drug-free workplace.

Debarment and Suspension and Drug-Free Workplace

July 2002

NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Government-wide Debarment and Suspension (Nonprocurement) and 14 CFR part 1267, Government-wide requirements for Drug-Free Workplace, unless excepted by 14 CFR 1265.110 or 1265.610.

[End of Provision]

§ 1274.928 Foreign national employee investigative requirements.

Foreign National Employee Investigative Requirements

July 2002

(a) The Recipient shall submit a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (Federal Bureau of Investigation Card FD–258) for each foreign national employee requiring access to a NASA Installation. These documents shall be submitted to the Installation's Security Office at least 75 days prior to the estimated duty date. The NASA Installation Security Office will request a National Agency Check (NAC) for foreign national employees requiring access to NASA facilities. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office.

(b) The Installation Security Office will request from NASA Headquarters, Code I, approval for each foreign national's access to the Installation prior to providing access to the Installation. If the access approval is obtained from NASA Headquarters prior to completion of the NAC and performance of the cooperative agreement requires a foreign national to be given access immediately, the Technical Officer may submit an escort request to the Installation's Chief of Security.

[End of Provision]

§ 1274.929 Restrictions on lobbying.

Restrictions on Lobbying

July 2002

This award is subject to the provisions of 14 CFR part 1271 ''New Restrictions on Lobbying.''

[End of Provision]

§ 1274.930 Travel and transportation.

Travel and Transportation

July 2002

(a) For travel funded by the government under this agreement, section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires the Recipient to use U.S.-flag air carriers for international air transportation of personnel and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern Recipient shipment of hazardous materials and other items.

[End of Provision]

§ 1274.931 Electronic funds transfer payment methods.

Electronic Funds Transfer Payment Methods

July 2002

Payments under this cooperative agreement will be made by the Government by electronic funds transfer through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH), at the option of the Government. After award, but no later than 14 days before an invoice is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Agreement Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Recipient shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communication System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Recipient shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account (''C'' for checking, ''S'' for savings).

(4) If the Recipient is a new enrollee to the ACH system, a ''Payment Information Form,'' SF 3881, must be completed before payment can be processed.

(c) In the event the Recipient, during the performance of this cooperative agreement, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Recipient official authorized to provide it, as well as the Recipient's name and contract number.

(e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

[End of Provision]

§ 1274.932 Retention and examination of records.

Retention and Examination of Records

July 2002

Financial records, supporting documents, statistical records, and all other records (or microfilm copies) pertinent to this cooperative agreement shall be retained for a period of 3 years, except that records for nonexpendable property acquired with cooperative agreement funds shall be retained for 3 years after its final disposition and, if any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. The retention period starts from the date of the submission of the final invoice. The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and

records of the Recipient and of subcontractors to make audits, examinations, excerpts, and transcripts. All provisions of this clause shall apply to any subcontractor performing substantive work under this cooperative agreement.

[End of Provision]

§ 1274.933 Summary of recipient reporting responsibilities.

Summary of Recipient Reporting Responsibilities

July 2002

This cooperative agreement requires the recipient to submit a number of reports. These reporting requirements are summarized below. In the event of a conflict between this provision and other provisions of the cooperative agreement requiring reporting, the other provisions take precedence.

[The Agreement Officer may add/delete reporting requirements as appropriate.]

Report	Frequency	Reference
Report of Joint NASA/Recipient Inventions	As required	1274.911 Patent Rights (Paragraph (b)(4))
Interim Report of Reportable Items	Every 12 months	1274.912 Patent Rights—Retention by the Recipient (Large Business) (Paragraph (e)(3)(i))
Final Report of Reportable Items	3 months after completion	1274.912 Patent Rights—Retention by the Recipient (Large Business) (Paragraph (e)(3)(ii))
Disclosure of Subject Inventions	Within 2 months after inventor discloses it to Recipient.	1274.912 Patent Rights Retention by the Recipient (Large Business) (Paragraph (e)(2)) or 1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (c)(1))
Election of Title to a Subject Invention	1 year after disclosure of the subject invention if a statutory bar exists, otherwise within 2 years.	1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (c)(2))
Listing of Subject Inventions	Every 12 months from the date of the agreement.	1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (f)(5)(i))
Subject Inventions Final Report	Prior to close-out of the agreement	1274.913 Retention by the Recipient (Small Business) (Paragraph (f)(5)(ii))
Notification of Decision to Forego Patent Protection.	30 days before expiration of the response period.	1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (f)(3))
Notification of a Subcontract Award	Promptly upon award of a subcontract	1274.912 Patent Rights—Retention by the Recipient (Large Business)(Paragraph (g)(3)) or 1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (g)(3))
Utilization of Subject Invention	Annually	1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (h))
Notice of Proposed Transfer of Technology	Prior to transferring technology to foreign firm or institution.	1274.915 Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions (Paragraph (b))
Progress Report	60 days prior to the anniversary date of the agreement (except final year).	1274.921 Publications and Reports: Non-Proprietary Research Results (Paragraph (d)(1))
Summary of Research	90 days after completion of agreement	1274.921 Publications and Reports: Non-Proprietary Research Results (Paragraph (d)(2))
NASA Form 1018 Property in the Custody of Contractors.	Annually by October 31	1274.923 Equipment and Other Property (Paragraph (f))
NASA Form 1018 Property in the Custody of Contractors.	60 days after expiration date of agreement	1274.923 Equipment and Other Property (Paragraph (f))

§ 1274.934 Safety.

Safety

July 2002

NASA's safety priority is to protect: (1) The public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.

(a) The Recipient shall act responsibly in matters of safety and shall take all reasonable safety measures in performing under this cooperative agreement. The recipient shall comply with all applicable federal, state, and local laws relating to safety. The Recipient shall maintain a record of, and will notify the NASA Agreement Officer immediately (within one workday) of any accident involving death, disabling injury or substantial loss of property. The Recipient will immediately (within one workday) advise NASA of hazards that come to its attention as a result of the work performed.

(b) Where the work under this cooperative agreement involves flight hardware, the hazardous aspects, if any, of such hardware will be identified, in writing, by the Recipient. Compliance with this provision by subcontractors shall be the responsibility of the Recipient.

[End of Provision]

§ 1274.935 Security classification requirements.

Security Classification Requirements

July 2002

Performance under this Cooperative Agreement will involve access to and/or generation of classified information, work in a secure area, or both, up to the level of *[insert the applicable security clearance level].* Federal Acquisition Regulation clause 52.204–2 shall apply to this Agreement and DD Form 254, Contract Security Classification Specification Attachment _____ *[Insert the attachment number of the DD Form 254].*

[End of Provision]

§ 1274.936 Breach of safety or security.

Breach of Safety or Security

July 2002

Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to NASA and is a material part of this contract. NASA's safety priority is to protect: The public; astronauts and pilots; the NASA workforce (including contractor employees working on NASA contracts); and high-value equipment and property. A major breach of safety by the Recipient entitles the Government to remedies (pending corrective measures by the Recipient) which includes, suspension or termination of the Cooperative Agreement, require removal or change of Recipient's personnel from performing under the Agreement. A major breach of safety must be related directly to the work on the Agreement. A major breach of safety is an act or omission of the Recipient that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than $1 million; or in any ''willful'' or ''repeat'' violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

(a) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security by the Recipient entitles the Government to remedies (pending corrective measures by the Recipient) which includes, suspension or termination of the Cooperative Agreement, require removal or change of Recipient's personnel from performing under the Cooperative Agreement. A major breach of security may occur on or off Government installations, but must be related directly to the work on the Cooperative Agreement. A major breach of security may arise from any of the following: compromise of classified information; illegal technology transfer; workplace violence resulting in criminal conviction; sabotage; compromise or denial of information technology services; damage or loss greater than $250,000 to the Government; or theft.

(b) In the event of a major breach of safety or security, the Recipient shall report the breach to the Agreement Officer. If directed by the Agreement Officer, the Recipient shall conduct its own investigation and report the results to the Government. The Recipient shall cooperate with the Government investigation, if conducted.

[End of Provision]

§ 1274.937 Security requirements for unclassified information technology resources.

Security Requirements for Unclassified Information Technology Resources

July 2002

(a) The Recipient shall be responsible for Information Technology security for all systems connected to a NASA network or operated by the Recipient for NASA, regardless of location. This provision is applicable to all or any part of the cooperative agreement that includes information technology resources or services in which the Recipient must have physical or electronic access to NASA's sensitive information contained in unclassified systems that directly support the mission of the Agency. This includes information technology, hardware, software, and the management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. Examples of tasks that require security provisions include:

(1) Computer control of spacecraft, satellites, or aircraft or their payloads;

(2) Acquisition, transmission or analysis of data owned by NASA with significant replacement cost should the Recipient's copy be corrupted; and

(3) Access to NASA networks or computers at a level beyond that granted the general public, e.g. bypassing a firewall.

(b) The Recipient shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this cooperative agreement. The plan shall describe those parts of the cooperative agreement to which this provision applies. The Recipient's IT Security Plan shall be compliant with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 *et seq.*) and the Government Information Security Reform Act of 2000. The plan shall meet IT security requirements in accordance with Federal and NASA policies and procedures that include, but are not limited to:

(1) OMB Circular A–130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources;

(2) NASA Procedures and Guidelines (NPG) 2810.1, Security of Information Technology; and

(3) Chapter 3 of NPG 1620.1, NASA Security Procedures and Guidelines.

(c) Within ____ days after cooperative agreement award, the Recipient shall submit for NASA approval an IT Security Plan. This plan must be consistent with and further detail the approach contained in the Recipient's proposal that resulted in the award of this cooperative agreement and in compliance with the requirements stated in this provision. The plan, as approved by the Agreement Officer, shall be incorporated into the cooperative agreement as a compliance document.

(d)(1) Recipient personnel requiring privileged access or limited privileged access to systems operated by the Recipient for NASA or interconnected to a NASA network shall be screened at an appropriate level in accordance with NPG 2810.1, Section 4.5; NPG 1620.1, Chapter 3; and paragraph (d)(2) of this provision. Those Recipient personnel with non-privileged access do not require personnel screening. NASA shall provide screening using standard personnel screening National Agency Check (NAC) forms listed in paragraph (d)(3) of this provision, unless Recipient screening in accordance with paragraph (d)(4) is approved. The Recipient shall submit the required forms to the NASA Center Chief of Security (CCS) within fourteen (14) days after cooperative agreement award or assignment of an individual to a position requiring screening. The forms may be obtained from the CCS. At the option of the government, interim access may be granted pending completion of the NAC.

(2) Guidance for selecting the appropriate level of screening is based on the risk of adverse impact to NASA missions. NASA defines three levels of risk for which screening is required (IT–1 has the highest level of risk):

(i) IT–1—Individuals having privileged access or limited privileged access to systems whose misuse can cause very serious adverse impact to NASA missions. These systems include, for example, those that can transmit commands directly modifying the behavior of spacecraft, satellites or aircraft.

(ii) IT–2—Individuals having privileged access or limited privileged access to systems whose misuse can cause serious adverse impact to NASA missions. These systems include, for example, those that can transmit commands directly modifying the behavior of payloads on spacecraft, satellites or aircraft; and those that contain the primary copy of ''level 1'' data whose cost to replace exceeds one million dollars.

(iii) IT–3—Individuals having privileged access or limited privileged access to systems whose misuse can cause significant adverse impact to NASA missions. These systems include, for example, those that interconnect with a NASA network in a way that exceeds access by the general public, such as bypassing firewalls; and systems operated by the Recipient for NASA whose function or data has substantial cost to replace, even if these systems are not interconnected with a NASA network.

(3) Screening for individuals shall employ forms appropriate for the level of risk as follows:

(i) IT–1: Fingerprint Card (FC) 258 and Standard Form (SF) 85P, Questionnaire for Public Trust Positions;

(ii) IT–2: FC 258 and SF 85, Questionnaire for Non-Sensitive Positions; and

(iii) IT–3: NASA Form 531, Name Check, and FC 258.

(4) The Agreement Officer may allow the Recipient to conduct its own screening of

individuals requiring privileged access or limited privileged access provided the Recipient can demonstrate that the procedures used by the Recipient are equivalent to NASA's personnel screening procedures. As used here, equivalent includes a check for criminal history, as would be conducted by NASA, and completion of a questionnaire covering the same information as would be required by NASA.

(5) Screening of Recipient personnel may be waived by the Agreement Officer for those individuals who have proof of—

(i) Current or recent national security clearances (within last three years);

(ii) Screening conducted by NASA within last three years; or

(iii) Screening conducted by the Recipient, within last three years, that is equivalent to the NASA personnel screening procedures as approved by the Agreement Officer under paragraph (d)(4) of this provision.

(e) The Recipient shall ensure that its employees, in performance of the cooperative agreement, receive annual IT security training in NASA IT Security policies, procedures, computer ethics, and best practices in accordance with NPG 2810.1, Section 4.3 requirements. The Recipient may use web-based training available from NASA to meet this requirement.

(f) The Recipient shall afford NASA, including the Office of Inspector General, access to the Recipient's, subcontractors' or subawardees' facilities, installations, operations, documentation, databases and personnel used in performance of the cooperative agreement. Access shall be provided to the extent required to carry out a program of IT inspection, investigation and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of NASA data or to the function of computer systems operated on behalf of NASA, and to preserve evidence of computer crime.

(g) The Recipient shall incorporate the substance of this clause in all subcontracts or subagreements that meet the conditions in paragraph (a) of this provision.

[End of Provision]

§ 1274.938 Modifications.

Modifications

July 2002

During the term of this agreement and in the interest of achieving program objectives, the parties may agree to changes that affect the responsibility statements, milestones, or other provisions of this agreement. Any changes to this agreement will be accomplished by a written bilateral modification.

[End of Provision]

§ 1274.939 Application of Federal, State, and Local laws and regulations.

Application of Federal, State, and Local Laws and Regulations

July 2002

(a) *Federal Laws and Regulations.* This Cooperative Agreement shall be governed by the Federal Laws, regulations, policies, and related administrative practices applicable to this Cooperative Agreement on the date the Agreement is executed. The Recipient understands that such Federal laws, regulations, policies, and related administrative practices may be modified from time to time. The Recipient agrees to consider modifying this Agreement to be governed by those later modified Federal laws, regulations, policies, and related administrative practices that directly affect performance of the Project.

(b) *State or Territorial Law and Local Law.* Except to the extent that a Federal statute or regulation preempts State or territorial law, nothing in the Cooperative Agreement shall require the Recipient to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law; however, if any of the provisions of the Cooperative Agreement violate any applicable State or territorial law, or if compliance with the provisions of the Agreement would require the Recipient to violate any applicable State or territorial law, the Recipient agrees to notify the Government (NASA) immediately in writing in order that the Government and the Recipient may make appropriate arrangements to proceed with the Project as soon as possible.

(c) *Changed Conditions of Performance (Including Litigation).* The Recipient agrees to notify the Government (NASA) immediately of any change in State or local law, conditions, or any other event that may significantly affect its ability to perform the Project in accordance with the terms of this Cooperative Agreement. In addition, the Recipient agrees to notify the Government (NASA) immediately of any decision pertaining to the Recipient's conduct of litigation that may affect the Government's interests in the Project or the Government's administration or enforcement of applicable Federal laws or regulations. Before the Recipient may name the Government as a party to litigation for any reason, the Recipient agrees to inform the Government; this proviso applies to any type of litigation whatsoever, in any forum.

(d) *No Government Obligations to Third Parties.* Absent the Government's express written consent, and notwithstanding any concurrence by the Government in or approval of the award of any Agreement of the Recipient (third party contract) or subcontract of the Recipient (third party subcontract) or the solicitation thereof, the Government shall not be subject to any obligations or liabilities to third party contractors or third party subcontractors or any other person(s).

[End of Provision]

§ 1274.940 Changes in recipient's membership.

Changes in Recipient's Membership

July 2002

The Recipient shall notify the cognizant Agreement Officer within seven (7) days of any change in the corporate membership (ownership) structure of the Recipient, including the addition or withdrawal of any of the Recipient's affiliated members (e.g., Consortium Member). If NASA reasonably determines that any change in the corporate membership (ownership) of Recipient will conflict with NASA's objectives for the _____ Project or any statutory or regulatory restriction applicable to the agency, NASA may terminate this Agreement after giving the Agreement Recipient at least ninety (90) days prior written notice of such perceived conflict and a reasonable opportunity to cure such conflict.

[End of Provision]

§ 1274.941 Insurance and indemnification.

The following provision is applicable to all cooperative agreements with commercial firms that involve programs or projects that are subject to Section 431 of Public Law 105–276, which addresses insurance for, or indemnification of, developers of experimental aerospace vehicles.

Insurance and Indemnification

July 2002

(a) *General.* The Recipient has applied, under the provisions of Section 431 of Public Law 105–276 (Section 431), for indemnification by the Government against certain third party damage claims that might arise under the Agreement. Under Section 431, a necessary prerequisite to, and consideration for, the Government's granting such indemnification is the Recipient's obtaining insurance against an initial increment of such damages arising from certain third party claims. This provision sets forth the requirements for this insurance prerequisite to a Government grant of indemnification.

(b) *Definitions.* The definitions at 14 CFR 1266, Cross-Waivers and Indemnification, apply to this provision.

(c) *Insurance.* The Recipient shall obtain, as part of its financial contribution, insurance that meets the following parameters:

(1) The insurance policy or policies shall insure against damages incurred by third parties arising from covered activities;

(2) The amount of insurance applicable to each launch shall be [Amount to be inserted by the contracting officer]. The Government may subsequently increase the amount of insurance the Recipient is required to maintain to qualify for indemnification, for one or more launches, and the Recipient shall pay the additional cost of such increases from its financial contribution; and

(3) The insurance policy or policies shall name the parties and their related entities, and the employees of the parties and their related entities, as named insureds.

Nothing in this provision precludes the Recipient from obtaining, at no cost to the Government, such other insurance as the Recipient determines advisable to protect its business interests.

(d) *Proof of Insurance.* The Recipient shall provide proof of insurance that meets the parameters in paragraph (c) of this provision and that is acceptable to the Agreement Officer:

(1) Within 30/60 days after the execution of the modification adding this provision to the Agreement;

(2) No later than 30 days before each launch; and

(3) Within 7 days after a request by the Agreement Officer.

Moreover, the Recipient shall promptly notify the Agreement Officer of any termination, or of any change to the terms or conditions of an insurance policy or policies for which proof of insurance was provided.

(e) *Notification of Claims.* The Recipient shall—

(1) Promptly notify the Agreement Officer of any third party claim or suit against the Recipient, one of its related entities, any employee of the Recipient or its related entities, or any insurer of the Recipient for damages resulting from covered activities;

(2) Furnish evidence or proof of any such claim, suit or damages, in the form required by NASA; and

(3) Immediately furnish to NASA, or its designee, copies of all information received by the Recipient, or by any related entity, employee or insurer that is pertinent to such claim, suit or damages.

(f) *NASA Concurrence in Settlements.* NASA shall concur or not concur in each settlement of a third party claim by the Recipient's insurer(s). For purposes of determining the amount of indemnification under this cooperative agreement. Adjudicated claims shall be deemed concurred in by NASA.

[End of Provision]

§ 1274.942 Export licenses.

Export Licenses

July 2002

(a) The Recipient shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR parts 730 through 799, in the performance of this Cooperative Agreement. In the absence of available license exemptions/exceptions, the Recipient shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Recipient shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this Cooperative Agreement, including instances where the work is to be performed on-site at [insert name of NASA installation], where the foreign person will have access to export-controlled technical data or software.

(c) The Recipient shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

(d) The Recipient shall be responsible for ensuring that the requirements of this provision apply to its subcontractors.

(e) The Recipient may request, in writing, that the Agreement Officer authorize it to export ITAR-controlled technical data (including software) pursuant to the exemption at 22 CFR 125.4(b)(3). The Agreement Officer or designated representative may authorize or direct the use of the exemption where the data does not disclose details of the design, development, production, or manufacture of any defense article.

[End of Provision]

Appendix to Part 1274—Listing of Exhibits

Exhibit A to Part 1274—Contract Provisions

All contracts awarded by a recipient, including small purchases, shall contain the following provisions if applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with E.O. 11246, ''Equal Employment Opportunity,'' as amended by E.O. 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR Part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts in excess of $50,000 for construction or repair awarded by Recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each recipient or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to NASA.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $50,000 for other contracts, other than contracts for commercial items, that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Subsection 102 of the Act, each recipient shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Rights to Inventions Made Under a Contract or Agreement—

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

5. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water

Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended —Contracts, other than contracts for commercial items, of amounts in excess of $100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

6. Byrd Anti-Lobbying Amendment (31 U.S.C.1352)—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

7. Debarment and Suspension (E.O.s 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Exhibit B to Part 1274—Reports

1. Individual Procurement Action Report (NASA Form 507)

The Agreement Officer is responsible for submitting NASA Form 507 for all cooperative agreement actions.

2. Property Reporting.

As provided in paragraph (f) of § 1274.923, an annual NASA Form (NF) 1018, NASA Property in the Custody of Contractors, will be submitted by October 31 of each year. Negative annual reports are required. A final

report is required within 30 days after expiration of the agreement (also see paragraph (g) of 1274.923 for electronic submission guidance).

3. Disclosure of Lobbying Activities (SFLLL)

(a) Agreement Officers shall provide one copy of each SF LLL furnished under 14 CFR 1271.110 to the Procurement Officer for transmittal to the Director, Analysis Division (Code HC).

(b) Suspected violations of the statutory prohibitions imple mented by 14 CFR part 1271 shall be reported to the Director, Contract Management Division (Code HK).

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Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 573 et al.

Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573, 574, 576, 579

[Docket No. NHTSA 2001–8677; Notice 3]

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: Final rule.

SUMMARY: This document adopts a regulation that will implement the early warning reporting provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this rule, motor vehicle and motor vehicle equipment manufacturers will be required to report information and to submit documents about customer satisfaction campaigns and other activities and events that may assist NHTSA to promptly identify defects related to motor vehicle safety.

We are also adopting amendments to NHTSA's general and tire recordkeeping regulations to assure that manufacturers retain relevant information.

The final rule also moves certain existing provisions of NHTSA's regulations to other parts of the Code of Federal Regulations.

DATES: *Effective Date:* The effective date of this final rule is August 9, 2002. *Applicability Dates:* Various provisions of this final rule are applicable on the dates stated in the regulatory text. See 49 CFR 579.28. *Petitions for Reconsideration:* Petitions for reconsideration of the final rule must be received not later than August 26, 2002.

ADDRESSES: Petitions for reconsideration of the final rule should refer to the docket and notice number set forth above and be submitted to Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL–401, 400 Seventh Street SW., Washington, DC 20590.

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 Final Rule

In our notice of proposed rulemaking (NPRM) (66 FR 66190), we proposed to 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. There was no opposition to this approach, and we are adopting it.

The first group consists of larger manufacturers of motor vehicles, and all manufacturers of child restraint systems and tires. In general, the larger vehicle manufacturers must report separately on four categories of vehicles (if they produced, imported, offered for sale, or sold 500 or more of a category annually in the United States): light vehicles, medium-heavy vehicles and all buses, trailers, and motorcycles.

• *Deaths.* These manufacturers must report certain specified information about each incident involving a death that occurred in the United States that is identified in a claim (as defined) against and received by the manufacturer. They must also report information about incidents involving a death in the United States that is identified in a notice received by the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's product. Finally, they must report on 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.

• *Injuries.* These manufacturers must report certain specified information about each incident involving an injury that occurred in the United States that is identified in a claim against and received by the manufacturer, or that is identified in a notice received by the manufacturer which notice alleges or proves that the injury was caused by a possible defect in the manufacturer's product.

• *Property damage.* These manufacturers (other than child restraint system manufacturers) must report the numbers of claims for property damage that occurred in the United States that are related to alleged problems with certain specified components and systems, regardless of the amount of such claims.

• *Consumer complaints.* These manufacturers (other than tire manufacturers) must 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. Manufacturers of child restraint systems must report the combined number of such consumer complaints and warranty claims, as discussed below.

• *Warranty claims information.* These manufacturers must report the number of warranty claims (adjustments for tire manufacturers), including extended warranty and good will, they receive that are related to problems with certain specified components and systems that occurred in the United States. As noted above, manufacturers of child restraint systems must combine these with the number of reportable consumer complaints.

• *Field reports.* These manufacturers (other than tire manufacturers) must report the total number of field reports they receive from the manufacturer's employees, representatives, and dealers, and from fleets, that are related to problems with certain specified components and systems that occurred in the United States. In addition, manufacturers must provide copies of certain field reports received from their employees, representatives, and fleets, but are not required to provide copies of reports received from dealers.

• *Production.* These manufacturers must report the number of vehicles, child restraint systems, and tires, by make, model, and model year, during the reporting period and the prior nine model years (prior four years for child restraint systems and tires).

These manufacturers must separately report the numbers identified above for each model and model year, as the rule defines it (ten years for vehicles and five years for tires and child restraint systems).

A manufacturer or brand name owner of tires will not have to report any information other than information relating to incidents involving deaths for limited production tires and other tires exempted from the Uniform Tire Quality Grading Standards pursuant to 49 CFR 575.104(c)(1). In addition, tire manufacturers need only report incidents involving deaths for tires other than passenger car tires, light truck tires, or motorcycle tires. (Manufacturers should note these exclusions in reviewing the reporting requirements under this rule, as we may not repeat it in all instances in which it may apply).

The second group of manufacturers consists 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 (including 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 must report the same information about incidents involving deaths as the first category, but are not required to report any other information.

In addition, all vehicle and equipment manufacturers in both groups must provide copies of all documents sent or made available to more than one dealer, distributor, owner, purchaser, lessor or lessee, in the United States with respect to customer satisfaction campaigns, consumer advisories, recalls, or other activities involving the repair or replacement of vehicles or equipment.

Reports must be submitted electronically, in specified formats. The components and systems on which reporting is required will vary, depending on the type of product involved. Documents such as consumer advisories must be submitted electronically or in hard copy.

With respect to the information required to be submitted under this rule, there will be four reporting periods each calendar year of three months each. The first such report will cover the second calendar quarter of 2003. Reports, including copies of field reports, will be due not later than 30 days after the end of a calendar quarter, except for the final three calendar quarters of 2003, when we are allowing a period of 60 days after the end of the calendar quarter. Documents other than field reports that are required to be submitted under this final rule (those documents currently required under 49 CFR 573.8), will be due not later than 5 working days after the end of the month in which they are generated by the manufacturer, beginning with April 2003.

To help NHTSA identify trends that could indicate potential safety problems, manufacturers will be required, on a one-time basis, to report the number of warranty claims or adjustments and the number of field reports for each calendar quarter during the three-year period from April 1, 2000 through March 31, 2003, the date preceding the beginning of the first reporting period that is established by the final rule, April 1, 2003. Submission of copies of field reports is not required under this one-time provision.

The early warning reporting requirements will comprise Subpart C of a new 49 CFR Part 579. Following final rulemaking, the foreign defect reporting requirements proposed on October 11, 2001 (66 FR 51907) will comprise Subpart B of Part 579. This rule adopts a Subpart A containing general requirements that will apply to both Subparts B and C, except where otherwise stated.

We are also adopting amendments that extend the recordkeeping requirements of 49 CFR Part 576 to child restraint system and tire manufacturers:

• These manufacturers will now 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 will also be required to retain for five years records of purchasers of tires they manufacture. Manufacturers of motor vehicles will 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.

In addition, the record retention requirements have been expanded to require all manufacturers to retain, for five years, the underlying records on which the information they provide NHTSA under the early warning rule is based. (For manufacturers of equipment other than tires and child restraint systems, this is limited to records related to incidents referred to in claims and notices involving deaths.)

The early warning final rule, the final rule pertaining to foreign defect campaigns, and current 49 CFR 573.8 will be codified in 49 CFR Part 579 (2002). Part 573 is being amended to include the provisions of current Part 579 (2001) with respect to defect and noncompliance responsibility. These are

reflected in amendments to the scope, purpose, and definitions of Part 573, and the addition of the substantive requirements of existing Section 579.5 as a new Section 573.5.

The final rule is effective August 9, 2002. The first quarterly reporting period for early warning information begins on April 1, 2003. Quarterly reports for calendar 2003 will not be due until two months following the end of the quarter, (e.g., the first quarterly report will be due on August 31, 2003). Thereafter, beginning with the first quarter of calendar 2004, information is due 30 days following the end of the reporting period. The one-time report of historical information will be due September 30, 2003, approximately 90 days following the end of the first reporting period. The documents that are required to be submitted on a monthly basis will be due five days after the end of the month in which they are generated, beginning with April 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 amends 49 U.S.C. 30166 to add a new subsection (m), Early warning reporting requirements. This subsection 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 may assist NHTSA in identifying potential safety-related defects.

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). After considering the many comments provided in response to the ANPRM, we followed this with a notice of proposed rulemaking (NPRM), published on December 21, 2001 (66 FR 66190).

On October 11, 2001, we issued a separate 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 safety recalls and other safety 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. The December 21, 2001 early warning rule NPRM stated that the definitions proposed in Subpart A of that NPRM would apply to the rule regarding notification of foreign safety campaigns.

In response to the NPRM on the early warning rule, we received comments from a variety of sources. Motor vehicle manufacturers and associated trade organizations who commented were Ford Motor Company (Ford), the Truck Manufacturers Association (TMA), 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), American Honda Motor Company (Honda), the Motorcycle Industry Council (MIC), Blue Bird Body Company (Blue Bird), General Motors Corporation (GM), Gillig Corporation (Gillig), Spartan Motors Chassis, Inc. (Spartan), Porsche Cars North America, Inc. (Porsche), Fleetwood Enterprises, Inc., (Fleetwood), Utilimaster Corporation (Utilimaster), and the Alliance of Automobile Manufacturers (the Alliance). The tire industry was represented by the Rubber Manufacturers Association (RMA). The Juvenile Products Manufacturers Association (JPMA) represented the child restraint system industry. Other motor vehicle equipment manufacturers and associated trade organizations who commented were the American Motorcyclist Association (AMA), Johnson Controls (Johnson), the Waste Equipment Technology Association (Wastec), the Specialty Equipment Market Association (SEMA), the National Truck Equipment Association (NTEA), the Motor and Equipment Manufacturers Association (MEMA) for itself and the Original Equipment Suppliers Association, the National Automobile Dealers Association (NADA), Delphi Automotive Systems, LLC (Delphi), Webb Wheel Products, Inc. (Webb), and Bendix Commercial Vehicle Systems, LLC (Bendix). We also received comments from Public Citizen (PC), Consumers Union (CU), and a number of individuals concerned about a reference in the NPRM to motorcycle apparel.

These comments have provided us with numerous insights in developing this final rule. This completes the first phase of our early warning rulemaking. Consistent with Section 30166(m)(5), we will periodically review the final rule and consider possible amendments.

III. Manufacturers That Will Be Covered by the New Reporting Requirements

A. Scope of the Term ''manufacturer''

The proposed rule dealt primarily with the information that would be provided to NHTSA. Most of the information to be provided involved activities and events related to motor vehicle safety in vehicles and equipment in the United States; some information would be required with regard to some claims related to deaths in foreign countries involving motor vehicles or equipment that are identical or ''substantially similar'' to vehicles or equipment that are sold in the United States.

The NPRM addressed who was obligated to provide the information required under the proposed rule. We recognized that the information identified in the proposed rule could be maintained within various sub-entities of a multinational corporation. To assure that we received the information and to preclude non-reporting on the basis that the information was held by an entity not covered by the regulation, we proposed to define the covered entity—the manufacturer—inclusively to include corporate parents, subsidiaries and affiliates. Under this formulation, the information identified in the proposed rule would have to be submitted to NHTSA regardless of where it was maintained in a multinational corporation with numerous subsidiaries. At the same time, as a practical matter, we wrote the reporting obligations such that they would most likely be carried out by the entity that has traditionally reported to NHTSA.

In particular, in the NPRM, at Section 579.3(a) (''Application''), we stated ''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.'' In subsection (b), we stated that ''[i]n 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.'' [1]

Further, at proposed Section 579.4, we stated that the term ''manufacturer'' is used as defined in 49 U.S.C. 30102; however, for purposes of Part 579, it also ''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.''

In the NPRM, we stated that the TREAD Act expanded manufacturers' responsibilities with respect to foreign events and activities and thus has extraterritorial effect. As we noted, 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 the United States, and that the rule could reasonably require reports from foreign companies manufacturing vehicles for sale in the United States as long as the reports related to issues that could arise in those vehicles. Under the NPRM, foreign entities would be required to provide the same information as we would require for domestic manufacturers, but 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 motor vehicles or equipment. *See* 66 FR at 66193–66194. We explained that, in view of both the definition of manufacturer and the specific provisions of Section 30166(m), we believed that the agency has authority to require a report from the entity that maintains the information, from the fabricating manufacturer, and from the importer of the vehicle or equipment, but that we were proposing to require reporting only by either the fabricating manufacturer or by the importer, because this was consistent with current reporting under 49 CFR Part 573 and with our recent proposals for reporting of safety recalls and other safety campaigns in foreign countries, pursuant to 49 U.S.C. 30166(l). *See* 66 FR at 66193–66194. And we observed that a multinational corporation must adopt practices to ensure that all relevant information on matters for which reports are required is made available to that corporation's designated reporting entity, so that the designated entity timely provides the information to NHTSA. We stated that a multinational corporation would be violating the law if it designated its U.S. importer as its reporting entity but failed to assure that the importer was provided with the information required to be reported. *See id.* at 66194.

In addition, in the preamble to the NPRM, at Section III.D, we explained that we proposed to deem information (such as claims-related information) that is initially received by representatives of the manufacturer (such as their registered agents and outside counsel) to be in the possession of the manufacturer, and thus to require each manufacturer to ensure that entities it has the ability to control furnish it with the information covered by this rule so that the manufacturer may make a full and timely report to NHTSA. However, we also stated explicitly that we were not proposing to require such representatives to report directly to NHTSA. *See* 66 FR at 66194.

Many manufacturers and trade associations commented on various aspects of the scope of ''manufacturer,'' particularly with respect to subsidiaries and affiliates (including law firms). These commenters included AIAM, the Alliance, Delphi, Ford, GM, Harley-Davidson, Honda, Bendix, MEMA, Nissan, RMA, TMA, Volkswagen, and Webb. Ford, GM, Nissan, and Volkswagen also stated that they supported the Alliance's comments; Honda also stated that it supported AIAM's comments. The comments are discussed by issue, below.

1. Proposed Requirements for Reporting About Events in Foreign Countries

Foreign manufacturers that manufacture vehicles or equipment for sale in the United States have long been subject to the reach of the American legal and regulatory system. They are subject to the requirement that they certify that all their vehicles or equipment imported into the United States comply with applicable Federal motor vehicle safety standards. 49 U.S.C. 30115. They are subject to recall provisions. 49 U.S.C. 30117–120. They have been required to provide to NHTSA copies of all notices, bulletins, and other communications to more than one U.S. distributor, dealer, or purchaser regarding defects. 49 U.S.C. 30166(f) and 49 CFR 573.8. They are subject to record keeping and reporting provisions. 49 U.S.C. 30166 and 49 CFR Part 576. The Vehicle Safety Act requires such manufacturers to appoint agents for the service of process in actions involving this agency (49 U.S.C. 30164; see 49 U.S.C. 30102(a)(5)(A)). Both foreign and domestic manufacturers also appoint registered agents for the service of judicial process in general; these may be, but are not

[1] The text of proposed subsection (b) directly parallels the existing Code of Federal Regulations provision that governs the responsibilities of fabricating manufacturers and importers with respect to the filing of reports informing NHTSA of defective and noncompliant motor vehicles and motor vehicle equipment and of the progress of recall campaigns. *See* 49 CFR 573.3(b).

required to be, the same agents who register with NHTSA. Furthermore, foreign manufacturers that have U.S. subsidiaries do not rely exclusively on their American subsidiaries to conduct business before this agency. Rather, both Asian and European manufacturers have routinely participated in meetings at NHTSA headquarters in defects investigations, and even appear in litigation involving this agency.

As acknowledged by the Alliance in its comments on the ANPRM, the TREAD Act was clearly intended by the Congress to apply extraterritorially. The Alliance stated that this creates a ''whole new body of law and potential regulation'' in the area of gathering and reporting of information from persons overseas on their overseas activities.

In the NPRM, we focused primarily on information involving events or activities in the United States and to a lesser degree on certain foreign claims involving vehicles and equipment that are identical or substantially similar to those sold in the United States. As noted above, we proposed, at Section 579.3(a) and Section 579.4(a), to adopt a single, broad definition of manufacturer to assure that we received this information, be it in the possession of a domestic or foreign component of the manufacturer.

Several commenters, including the Alliance, Nissan, VW, and AIAM, objected to the breadth of our proposed definition of manufacturer. The Alliance and Nissan asserted that the proposed definition impermissibly failed to articulate a nexus between the covered manufacturers and the United States, and that in the absence of such a nexus, the proposed definition amounted to an attempt to assert extraterritorial jurisdiction in violation of international law. VW stated that NHTSA appeared to have recognized in the preamble to the NPRM that reporting obligations must be limited to foreign entities that manufacture vehicles or equipment for export to the U.S. (citing 66 FR 66193), but that NHTSA had failed to incorporate this recognition into the proposed regulatory text.

In our opinion, the proposed regulations were based upon and incorporated an adequate nexus to the United States. In addition to addressing events and acts in the United States, consistent with the TREAD Act, we required the submission of relatively limited information about claims for deaths in foreign motor vehicles that are ''substantially similar'' to vehicles that are sold in the United States. The substantial similarity of those foreign vehicles to their American counterparts creates a sufficient nexus to the United States.

As we indicated in the preamble to the NPRM (*see* 66 FR at 66193), we dealt with the nexus issue in the provisions governing the substance of the reports, rather than in the definition or ''application'' sections. However, to put this matter to rest, in response to the comments from the Alliance and others, we have decided to modify proposed Section 579.3(a), Application, by inserting, after the word ''leased,'' the phrase ''in the United States'' and by inserting, at the very end, with respect to vehicles and equipment offered for sale, sold or leased in foreign countries, the phrase ''substantially similar to any motor vehicles or motor vehicle equipment that have been offered for sale, sold, or leased in the United States.'' This will not make a substantive change in what we proposed.

We note further that we did not receive any comments on this aspect of the NPRM from any other branch or office of the U.S. government or from any foreign government.

2. Assertion that extending the definition of ''manufacturer'' to include subsidiaries and affiliates exceeds our statutory authority

Some commenters challenged the breadth of coverage of proposed Sections 579.3(a) and 579.4(a) based on the assertion that we lack statutory authority to include subsidiaries and affiliates within the definition of ''manufacturer.'' They contended that our proposal to do so violates congressional intent to limit the early warning requirements to those entities that fall within the literal Safety Act definition of the term—a person manufacturing or assembling vehicles or equipment, or importing same for resale (49 U.S.C. 30102(a)(5)(A), (B)). This position was presented in the abstract, without any presentation of where the parent companies' headquarters, importing and exporting subsidiaries, and assembly operation subsidiaries are located, and without any showing whether or how, under their view of the proper definition of manufacturer, NHTSA would be assured of receiving information specifically covered by section 3 of the TREAD Act; e.g., information on foreign safety recalls and other foreign safety campaigns and information on incidents in foreign countries involving fatalities alleged or proven to be caused by a possible defect in a motor vehicle that is identical or substantially similar to one offered for sale in the United States. *See* 49 U.S.C. 30166(l),(m)(3)(C). Implicit in their view was that, if information on foreign recalls, foreign deaths, or other TREAD Act categories was in the possession of a subsidiary that was not a manufacturer, assembler, or importer for resale, as referred to above, there would be no legal obligation to report such TREAD Act-related information to NHTSA.

We disagree with this assertion. Our proposal to include the parent and subsidiaries and affiliates within the term ''manufacturer'' was derived from our authority to implement 49 U.S.C. 30166(l) and (m). These sections invest NHTSA with substantive rulemaking authority and require that we exercise it. One element of this authority to issue substantive rules is the ability to construe the statute. This includes interpreting statutory provisions, such as the definition of ''manufacturer.'' Moreover, our interpretation is entirely consistent with congressional intent. The manifest intent was that NHTSA have the information to assist in promptly identifying safety-related defects. In contrast, under the industry commenters' position, multinational companies would not have to report foreign recall and early warning information if it was not held by entities that fit squarely into their definition of manufacturer—the assembler or the importer for resale. This is inconsistent with the TREAD Act.

The TREAD Act was enacted in the context of substantial numbers of deaths that occurred in the United States after defect-related deaths had occurred in South America and the Middle East. The multinational corporations that made and sold the vehicle (Ford Explorer) and equipment (Firestone tires) were aware of assertions that their products had caused these deaths and had conducted safety campaigns in foreign countries. They had not informed NHTSA of these matters and NHTSA was not aware of them until after it opened a formal defect investigation in the spring of 2000. Congress sought to correct this reporting deficiency, among other things.

Congress was aware that the vehicle and tire industries are comprised of multinational corporations, most of which have their principal place of business abroad, with numerous operations and subsidiaries around the world. With increased globalization and efforts to lower labor costs, this includes assembly operations in numerous countries. Of the larger light vehicle manufacturers, only two (GM and Ford) are based domestically, and they have numerous international subsidiaries. The remainder, including Honda, Nissan, Toyota, Volkswagen, DaimlerChrysler AG, and BMW, are

headquartered abroad, with one or more U.S. subsidiaries.[2] Similarly, the major tire producers are multinational corporations. Bridgestone/Firestone and Michelin are headquartered abroad, with U.S. and other subsidiaries.

Safety-related information could be maintained in a variety of locations by a variety of corporate parents and subsidiaries. For example, consider a recall in Venezuela conducted by a multinational corporation based in Europe of vehicles that are substantially similar to those that are assembled by a subsidiary in Mexico and imported by a U.S. subsidiary. Information on that foreign recall ordinarily would not have been directed to these assembling and importing subsidiaries. To interpret the legislation as applying only to assemblers and importers would be to eviscerate the TREAD Act, as it would amount to acceptance of non-reporting. In enacting the TREAD Act, Congress did not differentiate based on corporate structure and location. Congress likewise did not expect us to do so.

Moreover, while the TREAD legislation was being formulated, Jacques Nasser, then the CEO of Ford and as the representative of the automobile industry, agreed that the industry would notify NHTSA of recalls in foreign countries involving vehicles sold in the United States. S. Rep. No. 106–423 at 2–3. Also, the Alliance member companies (BMW, DaimlerChrysler, Fiat, Ford, General Motors, Isuzu, Mazda, Mitsubishi, Nissan, Porsche, Toyota, Volkswagen, and Volvo) sent a letter to NHTSA in which they committed to report to NHTSA their safety recalls and other safety campaigns that are conducted in a foreign country on a vehicle or component part that is also offered for sale in the United States. They did not limit this commitment to recalls and campaigns documented in the hands of corporate entities that are assemblers of the products or U.S.-based subsidiaries that are importers. In light of Mr. Nasser's statement and the Alliance members' commitment, which did not suggest a narrow meaning of the word manufacturer, there was no need for the Congress to more expressly legislate NHTSA's authority.

The commenters' views are even narrower than, and not consistent with, the definition of manufacturer in Section 30102(a)(5). Under that section manufacturer means a person—(A) manufacturing or assembling motor vehicles or equipment or (B) importing them for resale. To give meaning to all words, particularly the word manufacturing, manufacturer must be broader than mere assemblers and importers. The term manufacturer includes an enterprise. *See* American Heritage Dictionary (4th ed.)(manufacturer is ''a person, an enterprise, or an entity that manufactures something.''). This is consistent with our longstanding interpretation of the Vehicle Safety Act, which, in the course of numerous amendments, Congress has not rejected. For example, under 49 U.S.C. 30115, a ''manufacturer'' must certify that the vehicle complies with standards. Under our implementing regulations, the term manufacturer covers more than the assembler or importer. Under 49 CFR 567.4(g)(1)(i), for example, if a vehicle is assembled by a corporation that is controlled by another corporation that assumes responsibility for conformity with the standards, the name of the controlling corporation may be used as the manufacturer, even though it is not the assembler. See NHTSA interpretation of October 13, 1981 regarding PACCAR. This would allow, for example, parent Volkswagen of Germany to certify vehicles made by a Mexican subsidiary and imported into the U.S., DaimlerChrysler AG of Germany to certify M Class sport utility vehicles (SUVs) assembled by a subsidiary in Alabama, and Isuzu Motors Ltd. (of Japan) to certify Isuzu Rodeos assembled in Indiana. The commenters' position on the meaning of manufacturer is inconsistent with 49 CFR 567.4(g)(1)(i).

The enterprise view of a manufacturer is consistent with recent case law. *See Daimler-Benz Aktiengesellschaft* v. *Olson,* 21 S.W. 3d 707; 2000 Tex. App. LEXIS 3985 (2000), *cert. den. sub nom. DaimlerChrysler* v. *Olson,* _S.Ct._, 70 U.S.L.W. 3707 (2002) (rejecting allegation by Daimler-Benz that the court lacked jurisdiction over it because it is a German corporation not doing business in Texas, and stating that ''[o]ur review of this evidence shows Daimler-Benz as a company devoted to selling its cars worldwide. To achieve this goal, Daimler-Benz has established subsidiaries in important markets around the globe * * *'' 21 S.W.3d at 722–723).

Also, our approach to requiring information from multinational organizations is consistent with case law in which in a multinational corporate context, foreign parent, subsidiary and affiliate corporations of a party corporation have been required to provide information in litigation. *E.g., In re Richardson-Merrell, Inc.* (Bendectin Product Liability Litigation), 97 F.R.D. 481 (S.D. Ohio 1983) (compelling discovery from multinational drug manufacturer's domestic and foreign subsidiaries). Courts have applied a broad, multifaceted view of control sufficient to compel responses to discovery. For example, courts have held that subsidiary and affiliate corporations responsible for the sale of products in the United States have sufficient control over their parent's documents in order to be compelled to produce them. *See, Cooper Industries, Inc.* v. *British Aerospace, Inc.,* 102 F.R.D. 918 (S.D. N.Y. 1984) (ordering defendant that distributed and serviced airplanes in the U.S. and was a wholly owned corporate affiliate of plane manufacturer British Aerospace Public Limited Co. to produce documents believed to be in its British affiliate's files); *Afros S.p.A.* v. *Krauss-Maffei Corp.,* 113 F.R.D. 127 (D. Del. 1986) (ordering subsidiary to produce German parent corporation's documents where subsidiary was a wholly owned sales arm of parent and operating as exclusive seller of parent's products in the U.S.); *Ferber* v. *Sharp Electronics Corp.,* 1984 U.S. Dist. LEXIS 24861, *8, 40 Fed. R. Serv. 2d 950 (S.D.N.Y. 1984) (requiring wholly owned subsidiary of Japanese corporation that acted as parent's U.S. distributor and seller with respect to calculators that allegedly infringed patent to produce information held by parent); *In re Uranium Antitrust Litigation,* 480 F. Supp. 1138, 1153 (N.D. Ill. 1979) (party not required to have actual managerial power over the foreign corporation, but rather that there be a close coordination between them); *see also, Camden Iron and Metal, Inc.* v. *Marubeni America Corp.,* 138 F.R.D. 438 (D.N.J. 1991) (requiring U.S. based subsidiary corporation to produce Japanese parent's documents where parent had participated in negotiations over contract which became subject of present litigation) citing, *Gerling Int'l Ins Co.* v. *Commissioner of Internal Revenue,* 839 F.2d 131 (3d Cir. 1988); *Uniden America Corp.* v. *Ericsson Inc.,* 181 F.R.D. 302, 307 (M.D. N.C. 1998) (ordering party corporation to produce responsive records of sister, non-party corporation where companies were owned by same parent, which had

[2] For example, Toyota Motor Corporation is the Japanese parent. Its U.S. sales arm is Toyota Motor Sales U.S.A., Inc. Its public relations are under Toyota Motor North America, Inc. Toyota Motor Manufacturing, North America, Inc. oversees manufacturing companies in North America. Toyota Camrys and Avalons are assembled by Toyota Motor Manufacturing, Kentucky, Inc. Toyota pickup trucks are assembled by Toyota Motor Manufacturing, Indiana, Inc. Toyota Motor Manufacturing Canada Inc. in Ontario assembles Corollas, which are imported. Toyota's agent is Toyota Technical Center, U.S.A., Inc., which also submits certificates of conformity under the Clean Air Act.

power over them, shared information regularly, and sister corporation had provided party corporation documents to assist in present litigation); *Alimenta* v. *Anheuser-Busch Co.,* 99 F.R.D. 309, 313 (N.D. Ga. 1983) (sister corporations acted Aas one'' in transaction); *Soletanche and Rodio, Inc.* v. *Brown & Lambrecht Earth Movers, Inc.,* 99 F.R.D. 269, 272 (N.D. Ill. 1983) (requiring production of foreign parent's documents in patent infringement case where French, non-party, corporate parent had potential benefit in wholly owned, American subsidiary's winning offensive litigation); *First Nat'l City Bank* v. *I.R.S.,* 271 F.2d 616, 618 (2d Cir. 1959) (upholding subpoena requiring New York City bank to produce records located in its office in Panama).

Finally, our approach to requiring a multinational corporate enterprise to provide reports is consistent with the current regulatory practice of some agencies regarding reporting on foreign and domestic safety-related matters by multinational corporations. *See, e.g.,* Food and Drug Administration (FDA) rules regarding post-marketing reporting of adverse events following FDA approval (21 CFR 314.80) and reporting adverse events associated with investigational new drugs awaiting FDA approval (21 CFR 312.32); EPA Office of Pesticide Programs, PRN 98–3 (*www.epa.gov/opppmsd1/PR Notices/index*).

To make our conclusions clear, we are defining ''manufacturer'' in Section 579.4(c), where other terms used in the early warning rule are defined.

3. Nexus to the Motor Vehicle Industry

Another frequent comment was that the proposal to include subsidiaries and affiliates lacked the required nexus to the automotive industry. The Alliance asserted that the proposal would impose reporting requirements on unrelated subsidiaries (such as insurance providers, financing providers, or car rental companies) as well as on companies that have established limited business relationships with each other. GM stated that it was unnecessary and unduly burdensome to require reporting by some 1,000 unrelated subsidiary corporations that apparently would be required to report consumer complaints or notices of deaths or injuries if reported to an employee. Nissan characterized the proposed inclusion of subsidiaries and affiliates as arbitrary and capricious, and commented that the proposal would likely trigger undesirable reporting requirements that were unintended by Congress.

We believe that the industry commenters have exaggerated the burdens that the proposed reporting rule would place on them, their subsidiaries, and their affiliates. We did not propose to require a vehicle manufacturer to search the records of its automobile-financing subsidiary for information responsive to the early warning requirements. Also, we did not propose to require reporting by such entities. However, if a vehicle manufacturer decided for any reason to move the location where it receives or stores relevant vehicle safety-related records, including its information management system, to such a subsidiary or affiliate, then the early warning rule would require a search of that subsidiary's or affiliate's records.

Thus, Honda Power Equipment Manufacturing, Inc., which makes lawn mowers and related equipment, would not have to search its records or report, even though it is a subsidiary of American Honda Motor Co., Inc. General Motors Corporation would not have to search the records of General Motors Acceptance Corporation (GMAC) if the manufacturer in the usual course of business does not keep early warning information in the files of the automobile-financing subsidiary. However, if GM decided to change its current practice and store relevant safety information in the files of GMAC, GM would be required to search that subsidiary's records when preparing its early warning reports.

To further clarify matters, we have decided to add a new Section 579.3(c), which specifies that, in obtaining the information to be submitted under the early warning rule, manufacturers, including parents, subsidiaries, and affiliates, need only review information and systems where information responsive to Subpart C of Part 579 is kept in the usual course of business. This clarification, which incorporates language from Rule 34 of the Federal Rules of Civil Procedure, will eliminate questions of unintended and unnecessary burdens of reporting on affiliates and subsidiaries that are not involved in the areas for which reporting is required.

4. Duplicate Reporting

A number of commenters complained that the proposed rule would likely result in duplicate reporting of the same events by more than one entity and thus and cause the early warning information we receive to be inaccurate. As we made clear in the NPRM, duplicate reporting was not required. We proposed to allow reporting by either fabricating manufacturers or importers, so long as the multinational corporation assures the reporting entity is provided with information in sufficient time for the reporting entity to submit it NHTSA in a timely manner. *See* 66 FR at 66194 and proposed 49 CFR Section 579.3(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.'' We thought that this provision would eliminate duplicate reporting from separate elements of a multinational corporation.

The comments did not discuss this provision directly, but instead, addressed the subject of duplicate reporting more generally. Nevertheless, we have considered this provision further in light of those comments. We believe that there was considerable flexibility under the proposed rule. We address situations involving complex structures and multinational corporations below, to explain that duplicate reporting is not required and to provide guidance on allowed reporting mechanisms.

Some situations involve joint ventures and production agreements. In a joint venture, two manufacturers of motor vehicles establish a separate corporation whose products each of the manufacturers sells under its own brand name. In the production agreement, one manufacturer agrees to produce vehicles for another under the second manufacturer's brand name. An example of a joint venture is New United Motor Manufacturing Inc. (NUMMI), owned jointly by GM and Toyota, which produced the Toyota Corolla and the Geo Prizm. Examples of production agreements are those between Ford and Nissan in which Ford produced the Nissan Quest as well as the Mercury Villager, and between Isuzu and Honda, under which Isuzu produced the Isuzu Rodeo as well as the Honda Passport. A term used for a vehicle such as the Passport is a ''re-badged vehicle.'' In either case, the agency's certification regulation requires NUMMI and Ford or Isuzu, as the ''actual assembler of the vehicle,'' to certify compliance of the vehicles they fabricate, even if sold by another company. *See* 49 CFR 567.4(g)(1).

As indicated in the Alliance's comment, NUMMI is strictly a fabricator, with no sales outlets or repair facilities of its own. Instead, its products are sold through Toyota and Chevrolet dealerships. The Alliance feared that the proposed rule might oblige Toyota to report on claims and complaints received by GM about GM vehicles, and GM to report on those received by Toyota about Toyota vehicles. Such duplicate reporting is not required

under the rule. Reports may be submitted by Toyota as to Toyotas, and GM as to Chevrolets or Geos. Alternatively, Toyota, GM, or NUMMI may report as to all such vehicles.

The situation is similar with respect to vehicles manufactured under production agreements. For example, assume that Isuzu received consumer complaints about a brake problem in Rodeo vehicles and Honda received complaints about the problem in Passport vehicles. Both Isuzu and Honda may report to us the information that they possess about the vehicles under their own brand names, or the assembler (Isuzu) may report fully for both companies. Honda is not excused from reporting the complaint and other relevant information in its information systems about the Passport on the theory that Honda is not the assembler or importer of the vehicles.

Although the likelihood is that the brand name owners, rather than the fabricator (if other than a brand name owner), will receive consumer contacts about these vehicles, and that the tire brand name owner will be contacted rather than the tire fabricator, we have decided to add a provision to Section 579.3(b), similar to Section 573.3(b), that permits an election between the fabricator and the brand name owner with respect to early warning reporting for vehicles and equipment. We are adding a definition of ''brand name owner'' to the Terminology section of the rule, to mean ''a person that markets a motor vehicle or motor vehicle equipment under its own trade name whether or not it is the fabricator or importer of the vehicle.'' (This is similar to the definition of ''new tire brand name owner'' in 49 CFR 574.3(c)(3)). If the fabricator is the reporting entity, it must identify each company that is a brand name owner covered by the report (*see* new Section 579.28(h)), and every identified company must provide its information to the fabricator in a sufficiently timely fashion to permit the reporting company to file timely and accurate reports. The obverse is also true; i.e., if a brand name owner is reporting for itself, it must identify each fabricating manufacturer covered by the report.

Another scenario involves a situation where the domestic subsidiary of a foreign corporation assembles a vehicle that also is assembled abroad and imported. For example, in some years, Toyota manufactured some Corolla vehicles in Japan that it exported to the United States and an American subsidiary manufactured other Corollas in the United States. Under our rule, due to the parent-subsidiary relationship, each company may report early warning information to us separately without duplication, or one or the other may report on behalf of both (we would prefer a combined report, regardless of which entity actually submits it).

The next such situation involves foreign subsidiaries of U.S. corporations that manufacture vehicles that are sold in the U.S. For example, GM owns Saab of Sweden. Ford owns Volvo, Jaguar, Land Rover, and Aston Martin. This rule does not regulate corporate structure, and it does not matter whether the U.S. importer of these brands is a subsidiary of the foreign corporation or of the U.S. parent (or some other entity). We understand that consumer contacts about U.S. activities and events involving these vehicles are reported to addressees in the United States, whereas communications about foreign events involving the same or substantially similar vehicles are sent to addressees abroad. We had assumed that ordinarily the domestic parent or domestic subsidiary or subsidiaries (separate ones for, e.g., Volvo and Jaguar) would have the records about the domestic activities and events and would report to us about both the domestic and the foreign events after having obtained relevant information from the records maintained by the foreign entity. We are not requiring duplicate reports and are not requiring separate reports from the foreign entities, either limited to the foreign events, or including both foreign and domestic events. Moreover, the time may come when brands such as these are assembled by new subsidiaries in foreign countries, which would add another entity to the mix. We have decided to permit an election for parents and subsidiaries, similar to that proposed for fabricators and importers in proposed Section 579.3, and subject to the same provisos with respect to timeliness and completeness of reporting.

Finally, we consider foreign vehicles that are not exported to the U.S. but that are substantially similar to vehicles sold in the U.S. For example, Ford of the U.K. and Vauxhall Motor Co. Ltd. (owned by GM) [3] manufacture cars for the U.K. market. Although at present, these cars generally are not exported to the U.S., some of the U.K. models are substantially similar to domestic models (our decision with respect to defining ''substantially similar'' is discussed below). Assume, for example, the first-generation Mondeo, which was manufactured and sold in the U.K., is substantially similar to the Ford Contour and Mercury Mystique, which recently were sold in the U.S. Likewise, assume that the U.K. Vauxhall Omega and the German Opel Omega are substantially similar to the Cadillac Catera, which GM previously sold in the U.S. The assembler is a foreign company. Information about the Mondeo in the files of Ford of the U.K., and information about the Omega in the files of Vauxhall or Opel, is likely in Europe. There is no importer of the vehicle into the U.S. Nonetheless, we would allow Ford (U.S.) [4] and GM (U.S.) to obtain and report information about covered claims for deaths in the Mondeo or the Omega from the files in the U.K. or Germany. If there were such full reporting, we would not want duplicate reporting by a foreign company. To address this scenario, we will allow reporting of claims involving deaths in foreign countries by either the fabricating manufacturer, the importer, the brand name owner, or a parent or United States subsidiary of such fabricator, importer or brand name owner of the motor vehicle or motor vehicle equipment, and that shall be considered compliance by all persons. Thus, Section 579.3(b) will read as follows:

(b) In the case of any report required under subpart C of this part, compliance by the fabricating manufacturer, the importer, the brand name owner, or a parent or United States subsidiary of such fabricator, importer, or brand name owner of the motor vehicle or motor vehicle equipment shall be considered compliance by all persons.

We believe that the modifications we are announcing today with respect to the definition of manufacturer will resolve any other potential problems related to duplicate reporting and will facilitate reporting in a manner that avoids duplicate reporting.

5. Suggestion to Require a ''control relationship'' Between Manufacturers and Covered Subsidiaries and Affiliates

Several commenters (including the Alliance, Nissan, Honda, Bendix, and MEMA) suggested that it was not appropriate to impose reporting requirements on corporate affiliates or impute to manufacturer information in the possession of affiliates over whom the manufacturer does not have a controlling interest. More constructively, Harley-Davidson stated that it would strive to accumulate early

[3] The GM website (*www.gm.com*) under ''contact us'' refers in its pull down menu to Vauxhalls, as well as Holdens (manufactured in Australia) and Saabs.

[4] Ford's website (*www.ford.com*) reflects its world wide operations. It has a link that states ''find your local website from over 120 countries.''

warning reporting information from companies it does not control and would report such information if it learned of it, but might not be able to compel it from such entities.

The manufacturers did not provide concrete examples. Multinational vehicle manufacturers, in general, own all or substantial parts of vehicle manufacturing, importing, and sales subsidiaries. For example, Nissan Motor Co., Ltd. (Japan) owns one hundred percent of Nissan North America, Inc. Honda Motor Co., Ltd. owns American Honda Motor Co., Inc., a subsidiary of which, Honda of America Mfg., Inc., assembles Hondas in Marysville, Ohio. Volkswagen AG owns VW of America. DaimlerChrysler AG owns DaimlerChrysler Corp. (manufacturer of Chrysler, Dodge, and Jeep vehicles), Mercedes-Benz USA, Inc. (importer of Mercedes-Benz passenger cars, formerly known as Mercedes-Benz of North America, Inc.), and Mercedes-Benz U.S. International, Inc. (assembler of M Class SUVs in Alabama). However, there are other situations where there is partial ownership. For example, Ford owns a substantial portion of Mazda Motor Corp. and DaimlerChrysler A.G. of Mitsubishi Motors Corp.

MEMA proposed a ''bright line test'' in which reporting requirements would be imposed only in situations in which the manufacturer has an equity ownership of at least 50 percent in the affiliate or subsidiary. MEMA did not state the basis for its proposed ''50% ownership'' test. We do not see any reason to adopt a ''50% ownership'' test in the context of early warning reporting. It is entirely possible to for one entity effectively to control another with an ownership share of far less than 50 percent. It is too difficult to generalize as to the percentage of ownership that is required for the ability to control. Moreover, there may be multiple corporations above one another in a hierarchy and the multinational corporation may not be structured in a strictly vertical mode; there may be horizontal relationships. The concept of control is adequately addressed by the terms we used. For example, a parent corporation is defined in Black's Law Dictionary ''as a corporation that has a controlling interest in another corporation.'' A subsidiary corporation is defined as a ''corporation in which the parent corporation has a controlling share.'' *Ibid.* An affiliate of or person affiliated with a specified person means a person that directly, or indirectly through one or more intermediates, controls or is controlled by, or is under common control with, the person specified. Ordinarily, the persons are corporations. Securities and Exchange Commission regulation 17 CFR 230.405; *see also,* 17 CFR 240.10b–18(a)(1). We have adopted this definition.

To the extent that further interpretation of these matters is needed, we will address them in the context of concrete facts in the exercise of program administration and discretion.

As indicated earlier in this preamble, we have decided to permit joint venture manufacturers, rebadging manufacturers, and others to elect a reporter. As a practical matter, this flexible approach will enable reporting requirements to be met without resolution of control issues. Based on our experience with reporting of noncompliances and defects under section 573.3, we believe that this approach is workable.

6. Proposed Application to Outside Legal Counsel

We proposed in the NPRM to include within the term manufacturer ''any legal counsel retained by the manufacturer.'' *See* proposed Section 579.4(a). However, we did not propose to require reporting by outside counsel to manufacturers. *See* 66 FR 66194.

Our proposal to include legal counsel in the definition resulted primarily from our perception that certain ''minimum specificity'' information that is a precondition to reporting claims for death or injury may not be found in manufacturers' information systems. Initial claims may be very limited in detail, and it is possible that claims will not be ''perfected'' until outside counsel have become involved. To report, manufacturers will need information necessary to satisfy our ''minimum specificity'' requirement, such as the model year of the vehicle involved in a claim. Manufacturers may need to obtain this factual information from their outside counsel after those counsel receive that information.

The provision of this type of fundamental information would not violate the attorney-client privilege or present other ethical dilemmas to outside counsel. We are seeking only basic factual allegations.

Many commenters objected to our proposal to include retained legal counsel in the definition of manufacturer, and none supported it. The negative commenters included the Alliance, Nissan, Ford, GM, AIAM, Webb, Harley-Davidson, and RMA. Essentially, they asserted that inclusion of legal counsel in the definition was unnecessary because, in virtually all cases, basic relevant information known to outside counsel was made known to them by the manufacturer that retained them; that it would be unduly burdensome for outside counsel to be required to search their records periodically for such information; and that the requirement to divulge such information might pose ethical problems or conflicts of interest for lawyers or otherwise violate proscriptions against divulging privileged information or require disclosure of attorney's work product. Specifically, Nissan observed that, if the agency is concerned about abuse of claims of privilege, it could deal with this potential problem by cautioning against improper privilege claims rather than by redefining the term ''manufacturer.'' Ford requested that the term manufacturer be modified to exclude documents contained in litigation files.

We do not agree that the proposal would impose the sorts of burdens referred to by the commenters. However, to clarify the matter, we are adding a sentence to Section 579.28(d) to specify that in situations involving a claim for death or injury where the manufacturer does not possess all the information required for ''minimum specificity,'' and the matter is being handled by outside counsel, the manufacturer must attempt to obtain the missing information from the outside counsel. In light of this adjustment, we are eliminating outside counsel from the definition of manufacturer contained in Section 579.4(c). Where the corporate manufacturer has the information, which the Alliance claims is virtually always the case, there will be no obligation to inquire and no burden. In view of this modification, we believe that it is unnecessary to address separately the concerns raised by Nissan and Ford.

7. Constructive Notice of Information Received by Agents

In the preamble to the NPRM, we stated that we proposed to deem information that is received initially by representatives of manufacturers (such as their registered agents and outside counsel) to be information in the constructive possession of the manufacturer, and to require each manufacturer to ensure that entities it has the ability to control furnish it with relevant early warning information so that the manufacturer could make a complete and timely report to NHTSA. We also stated that we did not propose to require the representatives to report directly to NHTSA. *See* 66 FR 66194; *see also id.* at 66213—66214. However, while we addressed this subject in the

preamble, it did not appear in the proposed regulatory text.

Many commenters challenged our statements regarding constructive possession, arguing that we lack statutory authority to interpret the term ''possession'' in 49 U.S.C. 30166(m)(4)(B) and claiming that they cannot require entities that they do not control to provide them with information. We disagree. As discussed above, by virtue of our authority to conduct substantive rulemaking to implement the early warning reporting requirements, we are empowered to interpret statutory terms and promulgate a rule containing our interpretation.

The Vehicle Safety Act itself provides at Section 30164 for foreign manufacturers to appoint agents for the service of notices and process in administrative and judicial proceedings, and specifically states that ''service on the agent is deemed to be service on the manufacturer.'' *Id.* at 30164(b). Likewise, a common requirement under state law is the appointment of registered agents, and corporations are deemed to be served upon service on the registered agent. Therefore, we have concluded that, as in Section 30164(b), it is appropriate to impute the information contained in such claims to the manufacturer who is served via the appointed agent. Accordingly, in this final rule, we are adding a specification (Section 579.28(e)) stating that receipt of a claim by an agent of a manufacturer registered under State law or designated under the Vehicle Safety Act by a manufacturer offering vehicles or equipment for import shall be deemed received by the manufacturer. However, upon further consideration, we have concluded that it is not necessary to refer to the concept of constructive possession in the terminology or application sections of this rule. The provisions of this rule that require reporting of information in the possession of manufacturers and their subsidiaries, parents, and affiliates with respect to vehicles and equipment that they offer for sale in the United States and foreign vehicles or equipment that are substantially similar to such vehicles or equipment will suffice to ensure that we receive relevant early warning information from appropriate sources.

B. Manufacturers of Motor Vehicles

The TREAD Act provides for the agency to require manufacturers of motor vehicles [5] 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 will 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.

The final rule excludes 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 of each specified category in the year of the reporting period and in each of the two calendar years preceding the reporting period. This exclusion will apply to most manufacturers of multistage vehicles and alterers since the vast majority of them manufacture or sell fewer than 500 vehicles annually.

We are also excluding registered importers (RIs) of vehicles not originally manufactured to comply with Federal motor vehicle safety standards from most of the reporting requirements. RIs ordinarily would not have information that would be useful because most import limited numbers of vehicles, most of which are manufactured by companies who generally report to us, and the owners of most of these vehicles probably would not report problems to the RI.

However, these small-volume manufacturers and RIs are not exempt from the requirements, addressed below, to report to us certain specified information regarding incidents involving death(s) occurring in the United States that are identified in claims against and received by the manufacturer or that are identified in notices sent to the manufacturer where the notice alleges or proves 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, all manufacturers will have to provide certain information regarding the underlying incident, as described in greater detail below. All manufacturers will also have to provide copies of documents related to customer satisfaction campaigns, consumer advisories, recalls, and other safety activities under new Section 579.5. As discussed in Section III.A.4 above, duplicate reporting is not required. The commenters on the NPRM did not object to the concept of limited reporting by small-volume vehicle manufacturers.

For those motor vehicle manufacturers that are not excluded from full reporting based on low levels of sales in the United States, we are establishing separate reporting requirements based on the category of vehicle produced. We proposed five categories of vehicles: light vehicles, medium-heavy vehicles, buses, motorcycles, and trailers. In the final rule, we are adopting four; the final rule combines the proposed categories of

[5] 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.

medium-heavy vehicles and buses into one category. Each category has components and systems that distinguish it from the other three categories, and which may develop safety-related problems unique to that category. Therefore, we shall require different information regarding each category of vehicle, which will help to reduce the burdensomeness of the rule.

Under the rule, a light vehicle is any motor vehicle, except a bus, trailer, or motorcycle, with a gross vehicle weight rating (GVWR) of 10,000 lbs. or less. Medium-heavy vehicles include trucks and multipurpose passenger vehicles with a GVWR over 10,000 lbs., and buses regardless of GVWR (including school buses). Trailers are separately categorized regardless of GVWR. Motorcycles include any two- or three-wheeled vehicle meeting the definition of motorcycle in 49 CFR 571.3(b).

We asked 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 the 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.

RVIA commented that recreational vehicle (RV) manufacturers should be exempt from all early warning reporting, or, at most, only those requirements that are adopted for manufacturers of fewer than 500 motor vehicles. NTEA, Gillig, and WASTEC commented that the threshold should be 10,000 vehicles per year, the same as that governing eligibility to apply for temporary exemptions under Part 555 on grounds that compliance would cause substantial economic hardship, which they did not demonstrate, or, alternatively, 2,500 vehicles per year, the same as that governing eligibility to apply under Part 555 for other kinds of temporary exemptions. The rationale for these suggestions is that many companies producing multi-stage trucks and RVs in quantities greater than 500 are nevertheless ''small businesses'' by the criteria of the Small Business Administration (SBA) (13 CFR 121.201 (2000)).

We have considered these comments and have concluded that the 500 units is an appropriate demarcation point between larger and smaller manufacturers. We recognize that some manufacturers of more than 500 vehicles will be ''small businesses'' under the SBA criteria. However, that does not in itself provide a basis for exempting them from the more comprehensive reporting requirements. We have conducted investigations into alleged defects in products manufactured by relatively small businesses that have led to safety recalls and we believe that it is appropriate to obtain full early warning information from companies producing 500 or more vehicles. If experience shows that we do not get valuable information from relatively small vehicle manufacturers, we can and will adjust the threshold in the future.

We also received comments on our proposed five categories of vehicles. Utilimaster commented that it, like other delivery van producers, manufactures vehicles in both the over and under 10,000 lb. GVWR categories. It commented that ''commercial delivery vans under 10,000 lbs. GVWR have little in common with cars, sport utility vehicles and pickup trucks,'' and should not be in the same reporting category as these vehicles. It believed that if the final rule is adopted as proposed, it would be difficult to try to conform the company's internal records systems and reporting obligations to the discrete systems and component codes and differences in parts specified in the light and medium-heavy reporting categories. It argued that ''there should be only one set of failure codes and related numerical reporting.''

The use of GVWR to delineate the applicability of requirements adopted by NHTSA, other Federal agencies, and state governments is a common practice that has stood the test of time. In any event, the coding of systems and components and related numerical reporting for light and medium-heavy vehicles are very similar, as is discussed below. In our view, this similarity will avoid, or at least minimize, any problems that companies such as Utilimaster might have had.

RVIA also argued that reporting should be limited to the chassis portion of a RV and exclude living quarters. We disagree. If we adopted such a limitation, fires that arose in the living quarters would not be reported. We note that the Vehicle Safety Act provides that ''motor vehicle safety'' includes ''nonoperational safety of a motor vehicle.'' 49 U.S.C. 30102(a)(8).

C. 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 simplifying the previous language in new Section 579.4(c) to make it more readable.

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 independent 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, in their comments to the ANPRM, the Alliance, Ford, and AIAM specifically supported exclusion of OE manufacturers (OEMs) from early warning reporting requirements. OEMs, however, are not 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. For this reason, we did not propose to totally exempt OEMs from early warning reporting.

We tentatively decided for the NPRM 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 wanted to be certain that we obtain information regarding deaths attributed to OE. Accordingly, in the NPRM, we proposed 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.

NTEA suggested that, in the case of work-related equipment that is installed as original equipment, defects or alleged defects only be reported if they are ''germane to the operation of the motor vehicle.'' It gave, as an example, defects occurring in the operation or design of work-producing equipment such as a ladder or crane. Because such a defect ''has nothing to do with the safe operation of the vehicle,'' it should not have to be reported to NHTSA.'' We disagree. As noted above, the statutory term ''motor vehicle safety'' includes ''nonoperational safety of a motor vehicle.'' There are certain work-performing items of equipment whose failure can have serious safety consequences. For example, a dump truck's dump body hydraulic control valve may malfunction while the truck is moving and the dump body move up, scattering materials on the roadway and blocking the driver's rearward view of the road. Such a malfunction could lead to a death, yet under the NTEA approach, it would not be reported to NHTSA because the control valve does not relate to the operation of the dump truck as a motor vehicle. Also, a falling crane could hit a vehicle or create a dangerous distraction. It is not possible to define for the many types of specialty trucks and vehicles what work-performing equipment should not be included; any attempt to exclude an item of equipment will inevitably lead to confusion as to what should be reported. In any event, in view of the limited reporting required, NTEA has not shown that including the rule would impose much of a burden.

2. Replacement Equipment

Replacement equipment comprises an even broader universe of parts than OE. 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 jacks and most 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. Child restraints and tires are critical safety items. Therefore, we proposed that all manufacturers of child restraints and tires be required to provide the full range of information and documents proposed.

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, retailers such as Pep Boys, or general merchandisers. 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 proposed that, as with smaller volume vehicle manufacturers and original equipment manufacturers, manufacturers of other types of replacement equipment only be required to report to us claims regarding deaths and in notices regarding deaths allegedly due to possible defects in their products. We are adopting our proposal. However, we may revisit these limitations under our periodic review of the rule.

In the preamble to the NPRM, we cited retroreflective motorcycle rider apparel as an example of off-road motor vehicle equipment. The Motorcycle Rider Foundation posted a notice on its website urging readers to ''Fight NHTSA's Bid For Clothing Control!,'' claiming that ''NHTSA has no statutory authority for this power grab.'' Contrary to the Foundation's claim, ''motor vehicle equipment'' has been defined by statute (currently 49 U.S.C. 30102(a)(7)(C)) since 1966 to include ''any * * * apparel * * * that is not a * * * part * * * of a motor vehicle and is * * * intended to be used only to safeguard * * * highway users against risk of accident, injury, or death.'' We have not, and we do not intend to, prescribe standards or requirements for motorcycle apparel other than protective headgear, which has long been subject to FMVSS No. 218. The proposed rule would not, and the final rule does not, control motorcycle clothing. It is extremely unlikely that any such apparel would be the subject of a claim involving a death.

3. Tires

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)). We proposed that tire brand name owners be required to report, as well as tire manufacturers.

RMA asked that the final rule clarify that, where the tire brand owner is not the fabricating manufacturer, only the tire brand owner need report. We concur with this suggestion; the type of information and data we are seeking for early warning purposes is not likely to be received by the fabricating manufacturer when tires are marketed under the name of the tire brand owner. Accordingly, as adopted, Section 579.3(b) reads in pertinent part: ''In the case of any report required under this part, compliance by either the fabricating manufacturer * * * or brand name owner of the * * * motor vehicle equipment shall be considered compliance by all persons.''

4. Definition of ''Equipment''

We proposed to retain the existing definitions of Part 579 for ''original equipment'' and ''replacement equipment,'' in slightly edited form. These definitions of original equipment and replacement equipment are based on 49 CFR 579.4 (as it appears in 49 CFR Parts 400–999, revised as of October 1, 2001) and are many years old. We are adopting them as proposed.

The definition of ''original equipment'' includes ''equipment installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.'' Harley-Davidson observed that it has more than 2,000 suppliers and stated some items manufactured as original equipment or replacement parts for its motorcycles may find their way into the production

of other motorcycle brands or the general stream of commerce. Harley-Davidson also observed that its catalog runs several hundred pages with thousands of separate replacement and custom parts. It expressed the belief that NHTSA would not want production reports on each and every one of these, and that it would not make sense to submit reports on these items unless claims involving them were actually received. Accordingly, the comment recommended that a manufacturer not be required to list all production in its reports, or report at all except when a reportable incident has occurred.

We believe that the proposed rule was clear. Any manufacturer of motorcycles, original motorcycle equipment, and motorcycle replacement equipment is responsible for reporting incidents involving deaths based on claims it receives and on notices it receives alleging a defect in its product. But it is only with respect to motorcycles themselves that the manufacturer is responsible for reporting additional and specific categories of information to NHTSA under Section 579.23. Also, the motorcycle manufacturer is not responsible for reporting regarding equipment that is not original equipment, that is to say, equipment installed by a dealer without the manufacturer's express authorization.

With regard to replacement equipment, under the rule, manufacturers of replacement equipment are required to report any claims or notices of death allegedly due to a defect. In its role as a manufacturer of replacement equipment, Harley-Davidson would not have to report an incident unless it receives a claim or notice. *See* Section 579.27.

IV. Information That Must Be Reported

Section 30166(m)(3)(A) provides for 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) provides for 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 proposed to require manufacturers that manufactured for sale, offered for sale, imported, or sold in the United States 500 or more vehicles of specified categories, and all 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 rates, such as the number of claims per unit of production. We proposed to require these manufacturers to 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 earliest 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. *See* 66 FR 66194.

Under the NPRM, for each model of vehicles that are manufactured with more than one type of fuel system, and for each model of medium-heavy vehicles with more than one type of service brake system, the information required by this subsection would have been reported separately. In the final rule, this distinction between types of fuel systems has not been adopted for light vehicles, and applies only to medium-heavy vehicles including buses. The final rule distinguishes between gasoline powered, diesel powered, and other. The distinction between types of service brake systems (hydraulic and air) applies to medium-heavy vehicles including buses, and trailers.

In its analysis of potential defects, ODI has found it useful to compare problems in similar types of vehicles. The reporting category of ''light vehicles'' covers more types of vehicles than are defined in 49 CFR 571.3(b). For example, ''light vehicle'' includes passenger cars, various types of multipurpose passenger vehicles (e.g., minivans, vans, SUVs), and some trucks. Therefore, we have concluded that, in addition to identifying the make and model of a vehicle, manufacturers of light vehicles must also indicate the type classification of the vehicle as defined in Section 571.3(b) (i.e., passenger car, multipurpose passenger vehicle, or truck) that appears on the vehicle's label pursuant to Section 567.4(g)(7) certifying compliance with all applicable FMVSS. Manufacturers would also report production data for incomplete light vehicles. An ''incomplete light vehicle'' is an incomplete vehicle as defined by Section 568.3 which, when completed, will be a light vehicle. For similar reasons, we are requiring each light vehicle manufacturer to identify the ''platform'' of the vehicle, using its own nomenclature, as discussed in Section IV.H.1.

Similar considerations apply to child restraint systems. Therefore, we are requiring manufacturers of those products to indicate the ''type'' of child restraint system in their production reports. We are establishing three separate categories, as follows: ''Rear-facing infant seat'' means a child restraint system that positions a child to face in the direction opposite to the normal direction of travel of the motor vehicle and is designed to hold children up to 20 pounds; ''Booster seat'' means, as defined in S4 of FMVSS No. 213, ''either a backless child restraint system or a belt-positioning seat;'' and ''Other'' encompasses all other child restraint systems not included in the first two categories.

We recognize that manufacturers of medium-heavy trucks, buses, and trailers generally do not specify ''model years'' for their products. For purposes of this rule, to avoid confusion, we are defining the term ''model year'' for those vehicles to mean the year the vehicle was produced if no model year has been assigned to it. For equipment, ''model year'' will mean the calendar year the item was produced. We are using the term ''produced'' rather than ''manufactured'' to make it clear that we are not referring to the year a product was imported into the United States.

With respect to tires and child restraint systems, production data would only need to be submitted for a period of five years (i.e., the year of the reporting period and the four previous years). The ten-year period would still apply to vehicle manufacturers.

B. Definition of ''Claim''

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 researched the definition of claim, considered comments received in response to the ANPRM, and considered our investigatory experience with requests for claims information when we issued the NPRM.

As noted in the NPRM, 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.''

We explained that the definition of claim should be broad, and meet our needs under the TREAD Act. We proposed the following definition for claim (at 66 FR 66195–96):

> 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 of claim addressed the nature of a reportable claim and the subject matter that was covered. This was set forth in one definition to simplify matters and avoid to the extent possible complex definitional structures. First, a reportable claim would be a written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief. It would include, but not be 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 would exist regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. Finally, the existence of a claim could not be conditioned on the receipt of anything beyond the document stating a claim. The last two sentences of our proposal were 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. Second, as to the subject matter, we referred to a motor vehicle crash, accident, component or system failure, and a fire, as these are events that have safety implications. The proposed definition would exclude, for example, events with which the rule is not concerned, such as injuries in manufacturers' factories. Finally, the definition did not address what the claim must involve, allege or contain, as those matters are not parts of a definition of a claim. They are addressed below, as are warranties.

PC, CU, the Alliance, AIAM, Nissan, Honda, JPMA, RMA, and Harley-Davidson provided comments on this definition.

PC expressed approval of the proposed definition, with the caveat that the agency should also require the submission of basic information concerning lawsuits, such as the date the complaint was filed, the alleged injury, and the eventual disposition of the case. The additional information proposed by PC would not be necessary for early warning screening. The date the complaint was filed and the eventual disposition of the matter are not important to NHTSA for early warning purposes. NHTSA is concerned with the incident and using the basic information about the incident to identify a potential defect trend, not the outcome of litigation, which often occurs years later.

The Alliance recommended an alternative definition for a claim. It suggested a claim means:

> a written request or written 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 originating in a motor vehicle, that is sent to the manufacturer from the claimant or his/her authorized representative. Claim includes a demand in the absence of a lawsuit, an assertion or notice of litigation, or a subrogation request.

In support of its definition, the Alliance commented, and RMA concurred, that the definition of ''claim'' must specify more clearly that a claim must be in writing, regardless of whether it is a ''request'' or a ''demand.'' Furthermore, the Alliance stated that the definition should limit fire-related claims to those allegedly originating in a motor vehicle, to avoid the need to report claims related to fires in factories or offices of a manufacturer. The Alliance suggested that the definition must clarify that the claim must originate outside the company by the claimant or the claimant's authorized representative. The Alliance added that some of the types of activities included in NHTSA's proposed definition seemed inappropriate, such as ''settlement,'' or ''covenant not to sue,'' which is not a claim and will not be processed or coded as a claim by the manufacturer's ordinary claims-processing functions. It noted that a ''claim'' precedes a ''settlement'' or ''covenant not to sue,'' so it saw no need to include those terms in the definition. Finally, the Alliance submitted that a class action suit should be reported as one claim, rather than per member, because there is no way to ascertain the size of the class.

Harley-Davidson observed that the proposed definition of ''claim,'' unlike the proposed definition of ''warranty claim,'' is not necessarily limited to claims presented to the manufacturer, and should be revised accordingly.

JPMA requested the agency clarify that manufacturers need not report requests for free replacement components, such as harness clips,

broken in collisions where the claim does not allege or suggest that the broken component had anything to do with the injuries sustained in the collision.

We have carefully considered these comments. The Alliance and RMA suggested that NHTSA clarify that the claim be made in writing. The proposal defines a claim in part as ''a written request or demand for relief.'' The Alliance asked whether a ''demand'' also has to be in writing, asserting that some may conclude that only a ''request'' has to be in writing. We meant that ''written'' applies to and modifies both requests and demands, but since there appears to be some confusion as to our intent we are adding ''written'' before ''demand.''

The Alliance, RMA and Harley-Davidson also suggested that a claim must be one that is sent to the manufacturer from the claimant or the claimant's authorized representative. As noted in the definitions of claim from cases cited above, transmission of the claim is not part of the definition of claim. We believe that it is implicit that a claim would not have to be reported if it had not been received by the manufacturer or its registered agent. Nonetheless, we are adding to the reporting requirements the element that the claim must be one that is received by the manufacturer.

A third suggestion submitted by the Alliance is for NHTSA to delete the terms such as ''settlement,'' or ''covenant not to sue,'' because a manufacturer would have to receive a claim prior to these types of activities being undertaken. We disagree with this assertion. A settlement agreement or a covenant not to sue may have been preceded by only an oral demand upon the manufacturer. Oral demands need not be reported. Thus, the exclusion of settlements or covenants not to sue could result in underreporting.

The Alliance also suggested that a class action suit be counted as one claim because it is impossible to determine the size of the class. We agree in part with this comment. Rarely are class action suits brought where the claims are based on fatalities or injuries. In any event, for such class actions, each separate class action suit would be considered as a single claim, at a minimum. However, if a class action suit against a manufacturer does identify specific persons (excluding John and Jane Does) who died or were injured, the manufacturer should report on each of these claims separately. Similarly, in instances where there is a class action involving property damage, each identified class representative should be reported as presenting a separate claim.

We have considered cross-claims and third-party claims. A manufacturer would not need to report any claim, including a cross-claim, if it had already reported a claim involving the incident. However, it would have to report a third-party claim against it if it had not previously reported the incident. This would assure that we receive the information about the incident underlying the claim. For example, the original defendant might be an automotive dealership that third-partied the manufacturer as a defendant to a suit.

The vehicle manufacturers also raised comments on whether claims arising out of some fires should be reported. The Alliance commented that the inclusion of ''fire'' in the definition could be construed as covering claims received by a manufacturer related to fires that did not originate in motor vehicles. The intent of NHTSA's proposed definition was that the fire must relate to a motor vehicle or item of motor vehicle equipment; we did not intend to require reports on office or factory fires. Nonetheless, to clarify reporting of claims due to a fire, we are modifying the proposal to specify that it includes fires originating in or from a motor vehicle or a substance that leaked from a motor vehicle. This would cover, for example, fires from gasoline that spilled in a crash.

We also received comments on environmental claims. In general, NHTSA does not address issues involving alleged injury due to long-term environmental exposure. However, there can be overlaps between vehicle safety and environmental issues, and therefore we are not excluding all environmentally-related claims. For example, a vehicle fuel-release problem may be cognizable under the Clean Air Act, tort law, and the Vehicle Safety Act. Unfortunately, the comments we received on this issue lacked detail and did not suggest how to exclude irrelevant claims, although some examples were provided. For example, Nissan and the Alliance stated that exposure to asbestos in brake linings could lead to a claim related to environmental exposure. We are also aware of issues related to emissions of volatile organic compounds from vehicle interiors and of end-of-life environmental claims such as those related to disposal. This could include claims associated with the disposal of tires, batteries and mercury-containing components, as well as other vehicle residuals such as in junkyard operations (e.g., incineration). We have decided that these types of claims do not have to be reported to NHTSA under the early warning rule and are adding an exclusion to the definition of ''claim'' to reflect this. The reason is that these claims do not relate to the safety of a motor vehicle that is or may be operated. They would not aid in spotting a defect trend and are not the basis of past Vehicle Safety Act recalls.

JPMA, which represents child restraint manufacturers, commented that NHTSA should clarify that manufacturers of this equipment need not report requests for free replacement components, such as harness clips, broken in collisions where the claim does not allege or suggest that the broken component had anything to do with deaths or injuries or property damage. This comment is not consistent with the structure of the rule. Under the rule, manufacturers are required to report claims in the absence of an allegation of a specific failure of a component or causation. As discussed in the NPRM, many claims do not include specific allegations, but merely include general allegations of product failure. This is a type of information that NHTSA is seeking to help it identify defect trends. We believe that by requiring the reporting of all claims that fall within the definition, NHTSA will capture the information most likely to identify a potential defect trend. Of course, if the consumer's request was not related to a crash, such as a statement that a component was lost and the consumer requested a free replacement, the manufacturer would not report that request.

Therefore, based upon the foregoing we are defining ''claim'' as:

> A written request or written 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 originating in or from a motor vehicle or a substance that leaked from a motor vehicle. 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(s) stating a claim. Claim does not include demands related to asbestos exposure, to emissions of volatile organic compounds from vehicle interiors, or to end-of-life disposal of vehicles, parts or components of vehicles, equipment, or parts or components of equipment.

C. Definition of ''Notice''

Section 30166(m)(3)(C) provides for 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. To avoid impractical requirements, we proposed to require reporting of incidents of which a manufacturer receives or obtains documentation (e.g., in written or electronic formats). 66 FR 66196. We tried to avoid overlapping the definition of claim, which, as noted above, includes a written request or written demand for relief. In this context, we proposed to define ''notice'' in the context 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. In the preamble to the proposed rule, we noted that 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.

The Alliance, Nissan, MEMA, PC, Bendix, and RMA provided comments. PC agreed with NHTSA's proposed definition.

The manufacturer commenters (Alliance, Nissan, MEMA, Bendix, and RMA) argued that the proposed definition of ''notice'' was too broad and over inclusive. More particularly, Nissan and RMA stated that the language ''prepared by the manufacturer'' was a concern. RMA observed that the agency did not provide examples of what type of document ''prepared by the manufacturer'' would be included within the definition of ''notice,'' and recommended that this category be eliminated in the absence of further guidance and clarification on the issue. Thus, RMA recommended that the definition of ''notice'' be ''a document received by a manufacturer that does not include a demand for relief.''

All the manufacturers complained that the proposed definition would be construed to include all newspaper articles and media reports discussing the manufacturer and asserted that this would impose a tremendous burden on the manufacturers. Nissan was concerned as to what actions taken by a manufacturer can transform a mere article into a reportable notice.

Several commenters submitted alternate proposals for the definition of notice. The Alliance suggested that notice be defined as a written communication sent to a manufacturer alleging that a defect in a motor vehicle or item of motor vehicle equipment by that manufacturer caused an injury or fatality to the person originating the communication or to the person on whose behalf the notice is sent, but that does not request relief from the manufacturer. Notice does not include newspaper articles, publicly available Internet bulletin board postings or other materials in the public domain.

Nissan recommended that the definition of notice exclude situations where a manufacturer would have to report on ''actions'' in connection with media reports and be limited to those that, on their face, are presented to manufacturers for the purposes of notifying them of a potential vehicle defect. MEMA suggested that ''notice'' be defined as ''a document received by a manufacturer that (a) does not include a demand for relief, and (b) does not consist of unconfirmed media or other unconfirmed reports.''

Finally, Bendix suggested that requests for information that manufacturers receive from other government agencies, such as the NTSB, should be excluded from the definition of notice. We have considered these comments and have modified the proposed definition of ''notice'' to reflect them.

The Alliance recommended without explanation that the definition of notice include an element of death or injury. This was not included in MEMA's suggested definition. We are not adopting the Alliance's proposal. The definition of notice characterizes the essential nature of the notice. The elements that must to be set forth in the notice to trigger reporting are separate from the definition and are addressed under the regulatory requirements.

Next, under the definition in the NPRM, a document ''prepared by a manufacturer'' that does not include a demand for relief would be a ''notice.'' As noted above, several commenters expressed concern over the potential breadth of the language ''prepared by the manufacturer.'' In consideration of these comments, we are not adopting this phrase as part of the final definition. Before adopting such a requirement, we need to consider further the obligations that such a requirement would impose and the associated burdens.

Several manufacturers expressed concern that they would have to review and scan every news medium for reports discussing their products. This does not follow from a fair reading of the preamble to the NPRM. As we stated, newspaper articles and other media reports would only be reported when sent to the manufacturer by an owner or in situations where the manufacturer itself acknowledges, through its actions, that it received notice of the actual incident that was the subject of the media report. Furthermore, under the proposed rule, to trigger reporting, notices of death and injury had to allege or prove that the fatality or injury was caused by a possible defect in the manufacturer's vehicle or equipment and the vehicle had to be identified with minimal specificity.

Nonetheless, to reduce burdens that might be associated with review of newspaper articles, the definition of ''notice'' in the final rule requires reporting only of letters and other documents sent to the manufacturer (including those sent in electronic form) that on their face include the elements of the rule regarding notices of deaths and injuries, without regard to the content of any enclosed or attached newspaper article. This is expressed in the final rule by the phrase ''other than a media article.'' In general, newspaper articles do not have the required elements for reporting, including an allegation of a death or injury alleged or proven to have been caused by a defect, and minimal specificity regarding the vehicle or equipment. We believe that this resolution will result in very little unreported information and that it will reduce burdens associated with the asserted need to review newspapers or magazines for articles that may involve reportable incidents. This approach is similar to the first part of MEMA's proposed definition. However, we believe the definition suggested by the Alliance is too narrow. The Alliance would limit reporting of notices to those sent to a manufacturer by a customer or his/her representative. We would want reporting of notices by others, such as an injured non-owner passenger or eyewitness, and reporting where the legal status of a person as a representative is not specified, as it might not be in a letter written by a non-attorney.

Finally, we agree with Bendix that requests for information from other government agencies would generally not constitute a ''notice.'' However, we will not exempt all communications from such agencies, since they could relate to a problem that the agency or one of its employees had with a vehicle

or an item of equipment. This is most obvious with respect to communications from the General Services Administration, which manages many Federal vehicles, but also can apply to other agencies. To avoid unnecessary burdens, however, we will exempt communications from NHTSA, since we would already have the information included in such a communication.

Therefore, ''notice'' is defined in the final rule as ''a document, other than a media article, that does not include a demand for relief and that a manufacturer receives from a person other than NHTSA.''

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 proposed to use the term ''minimal specificity'' and to 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 identified on the item of equipment, the model name or model number.''

We proposed to define ''model year'' for this and all other early warning reporting purposes, for vehicles, 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, we proposed that ''model'' mean the name that its manufacturer uses to designate it. '' Model year'' would mean the calendar year in which the equipment was manufactured.

We asked for comments on the clarity and inclusiveness of these proposed definitions.

Johnson asked the agency to confirm that an incident involving an item of equipment need not be reported by its manufacturer unless the manufacturer has knowledge of the assembly part number or the component part number of the equipment item involved. The comment did not elaborate on why model name or model number would be inadequate and why an equipment item would have to be identified with this level of specificity for its manufacturer to comply with the proposed early warning reporting requirements. In view of the lack of information in the comment, we have no basis to modify our proposed definition. Adoption of such a suggestion could result in underreporting of claims of death.

RMA commented that, for a tire, the minimal information required should be the ''manufacturer, tire line, tire size, and tire identification number (TIN).'' According to RMA:

> the term ''tire line'' is the preferred term used by the tire manufacturers to designate their products, and, in most cases, is synonymous with the term ''tire model.'' The ''tire line'' name appears on the tire sidewall and is readily identifiable by consumers. Examples of ''tire line'' names are: Grabber AP, Discover A/T, Scorpion A/S, Firehawk LH, Energy MXV4 and Wrangler HT.

Accordingly, NHTSA will adopt the RMA recommendation to use the term ''tire line'' rather than ''model,'' and to define it as ''the entire name used by a tire manufacturer to designate a tire product, including all prefixes and suffixes as they appear on the sidewall of the tire.''

RMA asserted that that a reporting manufacturer should verify that it was, in fact, the manufacturer of the tire and that tire line, size, and TIN are needed for a precise identification of the tire. We disagree with respect to the TIN. To require a TIN would result in underreporting. If a tire is involved in a death, for early warning purposes it is sufficient that we know the tire manufacturer, tire line, and tire size, whereas the TIN may not be known at the time that the manufacturer initially receives the claim or notice. Timeliness is of the essence. Thus, we have decided that minimal specificity for tires is the manufacturer, tire line, and tire size.

With regard to claims, notices, and other reporting obligations discussed below, for vehicles, we proposed to 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'' was identical to the 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)). We requested comments on this approach and how our definition may achieve it. We did not receive any.

Our objective is to obtain reports by commonly-understood designations. For example, manufacturers must submit separate reports for pickup trucks and sport-utility vehicles built on a similar frame, since the submission of more narrowly defined data sets provides enhanced analytical capabilities, the vehicles are subject to different uses and stresses, and the vehicles have numerous different components. We would receive separate reports for identical vehicles of different ''makes'' (such as Chevrolet and GMC pickups, or Ford Taurus and Mercury Sable passenger cars). In addition, manufacturers would submit separate reports for different basic models of pickup trucks, such as the Ford F–150, F–250, and F–350, but within each such model, they would not submit separate reports for two-door and four-door versions, or versions with different engines, transmissions, or trim packages. Moreover, manufacturers would not report separately for two-wheel drive and four-wheel drive versions of the same vehicle, since this distinction is normally not critical in an early warning context.

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. *See* Section 579.28(d).

E. Claims and Notices Involving Death

1. Whether to Define Death

We did not propose to define death or fatality because we did not believe that it is necessary or appropriate to do so. Our reason was simple: the subject matter of this category of information is claims involving deaths and notices of incidents involving fatalities. As we explained, proof of death is not necessary, nor does it matter when death occurred.

2. Claims Involving Death

We proposed that every manufacturer be required to report certain information about each incident involving a death identified in claims it received during each reporting period, if the claim identified the product with minimal specificity. This would apply to claims regarding fatal incidents in foreign countries as well as the United States. We will discuss the comments related to this issue in the next section.

3. Notices Involving Death

We also proposed 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 incidents referred to in such notices would be combined with information about claims involving deaths on the same report, which would be submitted in electronic form, as discussed below.

CU, the Alliance, Nissan, AIAM, and Delphi commented on our proposals with respect to incidents involving death. CU supported the proposal as written. The Alliance requested clarification on the reporting of incidents involving a death in another manufacturer's vehicle, or the death of a pedestrian. The remaining commenters expressed concern that the proposed requirements could result in the submission of reports on the same incident by more than one manufacturer, or could burden manufacturers with the need to update reports in the event that a person initially reported as injured later dies.

Delphi expressed concern with possible duplication in the reporting requirements. Its comment noted that, under its interpretation of the proposed rules, it is possible that both the vehicle manufacturer and the manufacturer of a system or component used in the vehicle could report the same incident to NHTSA. Delphi recommended that the database have a key-relational column that could be used to identify redundancy. Delphi asserted that the name of the person who died is the only information that would be generally available for this purpose. Accordingly, it suggested that the agency acquire and maintain that information but not make it public.

While we recognize that there is a possibility of redundancy (i.e., that an incident involving a death could be reported by a vehicle manufacturer and a supplier), we believe that it is vitally important that we maximize the information about such incidents that is presented to us. Also, reports by a component manufacturer could be of importance either to the vehicle manufacturer or NHTSA in detecting potential defects when the same component is used in the vehicles of another manufacturer that has not yet received claims and notices involving deaths and injuries. As reported by the Alliance, the total number of claims received by its members (plus Honda) in 2000 for both death and injury was 9,200. It is likely that we will be able to identify most duplicate reports by considering the date of the incident and the location. Thus, there is no need to require manufacturers to submit the names of persons who died in the incidents.

Delphi also recommended that a means be provided for a manufacturer to update information that it previously submitted. For example, a manufacturer may receive notice of a death during a reporting period and subsequently receive notice of another death attributable to the same incident. Delphi suggested that the process for updating this type of information be defined. As discussed in Section IV.O, below, we have decided to limit the amount of required updating of information about incidents previously reported to us.

The Alliance asked NHTSA to clarify how a manufacturer should handle claims or notices identifying incidents involving a death (or injury) in another manufacturer's vehicle, or the death (or injury) of a pedestrian. The comment explained that this may occur, for example, in cases where the claim alleges that the striking vehicle, in which no death or injury occurred, had brake failure. The Alliance recommended that the manufacturer should report these incidents to NHTSA, even though it may result in some overcounting if the manufacturer of the other vehicle involved submits a report on the same incident. We agree.

Nissan stated that the proposed rule contained an omission in that it did not expressly limit the reporting of incidents involving deaths in foreign countries to those alleging that the death was caused by a possible defect in the manufacturer's product. As noted in the NPRM's preamble, this approach to reporting was intentional. Under the proposed rule, manufacturers would be required to report 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 product. *See,* e.g., proposed Section 579.11(b). The condition that there be an allegation or proof that the death was caused by a possible defect applied to notices but not to claims. For incidents involving one or more deaths occurring in foreign countries, a manufacturer would only need to report claims against it involving its product or one that is identical or substantially similar to a product that the manufacturer has offered for sale in the United States, but not notices of such deaths. *Id.* The agency explained in the preamble of the NPRM that because of problems and costs anticipated for the collection, categorization, translation, and analysis of foreign data, it had ''decided not to require at this time any information about incidents that occur in foreign countries except for those based on claims involving deaths.'' *See* preamble at p. 66215. The agency further explained in the preamble that because the assertion of a defect or malfunction is implicit in most ''claims,'' ''for early warning reporting purposes, a claim need not specifically allege or describe a defect.'' *See* preamble at p. 66199. For those reasons, as well as the realization that causation may not be required under foreign legal systems, the agency will not limit the reporting of incidents involving deaths in foreign countries identified in claims to those specifically alleging that a death was caused by a possible defect in the manufacturer's product.

4. Information About Deaths

We proposed that the information about deaths to be reported would contain, for each incident, the make, 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 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 adopting this proposal and adding a requirement to report the VIN of the vehicle, or the TIN of the tire, as applicable. The VIN is needed to allow us to fully identify the vehicle in question and compare it to relevant peers and to utilize other relevant information that may be available (e.g., FARS data). The TIN is needed to confirm related information about the tire in question.

We are also limiting the number of components or systems that need to be identified to five. It is unlikely that any claim or notice would identify more than five components or systems as having contributed to an incident. If the incident involved fire or rollover, these events are included in the limitation of five.

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 proposed 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. We are adopting this approach.

F. Claims and Notices Involving Injuries

1. The Definition of ''Injury''

The preamble of the NPRM identified an assortment of problems encountered by the agency in considering whether to define ''serious injury,'' and stated that in view of those problems, ''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 defect in the manufacturer's product, if the claim or notice identifies the product with minimal specificity.'' 66 FR 66198. The NPRM noted that even though pertinent statutory provisions at 49 U.S.C. 30166(m)(3)(A) and (C) make reference to ''serious injury,'' the agency is authorized under Section 30166(m)(3)(B) to require the reporting of claims and notices involving all injuries. The proposed rule would require manufacturers to submit ''[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 [product] * * *''

The Alliance, AIAM, Nissan, Honda, MIC, Spartan, Utilimaster, JPMA, and CU provided comments.

Notwithstanding NHTSA's explanation of its reasons for requiring reports of incidents involving all injuries as opposed to serious injuries, several manufacturers (Honda, Utilimaster, and Spartan) continued to argue that NHTSA should develop a clear, easy-to-apply definition to limit the reporting of serious injury claims. Honda contended that Congress recognized the potential pitfalls of mandating the collection of too much data by specifying the data to be collected in TREAD Act (Section 3(b)(m)(3)(a)(i)) as ''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.'' As an alternative, Honda proposed to define serious injury as ''one that normally requires treatment by medical professionals,'' to reduce the analytical skill level necessary to categorize injuries.

Several manufacturers (the Alliance, AIAM, Nissan and Honda) commented that NHTSA should exclude claims for non-physical injuries, such as emotional distress, loss of consortium, and long-term environmental exposure. They asserted that these claims do not add any value to spotting a defect trend.

We do not agree with Honda's suggestion that serious injury be defined as ''one that normally requires treatment by medical professionals.'' This definition is vague. Honda's definition would require us to define what ''normally requires treatment by medical professionals,'' a daunting task for the vast array of potential injuries. Honda did not define ''normally requires,'' ''treatment,'' or ''medical professionals.'' Honda's suggestion raises the concerns we addressed in the NPRM concerning an objective definition of ''serious injury'' in the context of the AIS system. NHTSA chose not to define ''serious injury'' because of difficulties in objectively defining ''serious injury,'' concern about manufacturers' delays in reporting the information as a result of the need to assess seriousness in the absence of necessary information, and the need for subjective determinations on the part of the manufacturers. We also wanted to ease manufacturers' fears that their decisions would be second-guessed and reduce the burden on them that continued monitoring to consider newly received information would require. In addition, Honda's suggestion would require manufacturers to hire expert staff to make assessments.

The concern expressed most often by industry commenters in regard to reporting on claims and notices involving injuries is that the definition of injury should exclude non-physical injuries such as emotional distress and injuries related to environmental conditions. In our view, practical considerations dictate that distinguishing between physical and non-physical injuries is not appropriate in the context of early warning reporting. In many cases, claims for injury are not very specific as to the type of injury alleged. Most states have very liberal pleading requirements for stating a cause of action in a complaint initiating a lawsuit. Some merely require that the complaint allege a general cause of action and that as a result the plaintiff sustained injury. Some states, such as California, use generic pleading forms for certain types of causes of action, such as motor vehicle accidents, general negligence, and product liability. These pleading forms do not require that a claimant indicate the precise or detailed type of injury. Instead, the claimant merely checks a box that indicates whether he or she is claiming compensatory damages. In these instances, where there were general allegations, unless it performed continued monitoring of claims (which most manufacturers resisted on grounds of burden), a manufacturer would be unable to distinguish between a claim alleging a physical injury and a claim alleging a non-physical injury.

Furthermore, if we were to embark on an exclusion of ''non-physical injury claims,'' we would have to define the term. This is ill advised for the same reasons set forth above regarding the reasons why we chose not to define ''serious injury;'' e.g., reporting delays, subjective determinations of manufacturers, second-guessing manufacturer decisions, easing burdens, etc.

We have considered the commenters' concern that reporting incidents involving non-physical injuries may indicate the existence of a defect trend when there is none. However, the comments have not demonstrated that non-physical injuries would necessarily not be indicative of a defect trend. At a minimum, we believe the reporting of some non-physical injuries may be desirable under the early warning rule. Consider for example a situation where an inadvertent air bag deployment did not cause physical injury but there is an alleged emotional injury. The inadvertent air bag deployment would be of interest to NHTSA since it could lead to physical injuries in other incidents. In another instance, a tire tread might separate, causing the driver to lose control of the vehicle and go off the road. The only injury may be an alleged emotional injury that is brought to the attention of the tire manufacturer through a claim. If we followed the suggestion of some commenters, these matters could go unreported. However, these claims are important to NHTSA because they may be indicative of a vehicle or component problem.

Several manufacturers raised concerns regarding claims related to environmental exposure to toxic substances, such as asbestos. We have addressed those concerns in our discussion of the definition of ''claim.''

2. Reporting of Incidents in Which Persons Were Injured, Based on Claims and Notices

We proposed to require manufacturers (other than those covered by proposed Section 579.28) to report each incident in which one or more persons are injured in the United States that is identified in a claim or notice, if the product was identified with minimal specificity and, as to notices, it was alleged or proved that the injury was

caused by a possible defect in the product. For these manufacturers, the report would be combined with the reporting of incidents involving fatalities and include the same types of information. 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 are adopting this approach for the reasons discussed above.

G. Other Possible Conditions on Reporting of Deaths and Injuries

In the NPRM, we recognized that some commenters to the ANPRM 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 proposed 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 Section 30166(m)(3)(C) provides for reports of incidents of which the manufacturer receives notice which involve fatalities which are alleged or proven to be caused by a possible defect. Thus, for such notices, we proposed to require an allegation of a defect. Otherwise, the manufacturer would be required to report incidents as to which 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, an allegation of defect would not have to identify the specific component or system that allegedly led to the incident.

In the NPRM, we addressed the suggestion by some manufacturers that the allegation that a vehicle component is involved should have to be confirmed before an incident would have to be reported. We rejected 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 we will be able to determine whether a formal investigation needs to be opened.

We also addressed the suggestion by some manufacturers that the reportable incidents be limited to failures of or problems with certain vehicle systems. As discussed in the preamble to the NPRM and below, we believe that this approach is appropriate for certain types of information. However, while deaths and injuries are relatively rare, they are so significant that we want our information to be as complete as possible. Therefore, we proposed 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, in addition to incidents in the United States, 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. Thus, the TREAD Act reflects Congressional intent that manufacturers submit information involving foreign deaths. In an effort to minimize the burdens associated with gathering information about incidents in foreign countries simply involving notice, in this phase of rulemaking we proposed to require only reporting of such claims involving fatalities occurring in a foreign country. See, for example, proposed Section 579.21(b)(1). We did not propose to require reports about incidents in foreign countries that resulted in non-fatal injuries. In light of the anticipated robustness of the domestic data, we did not believe that our early warning capabilities would be adversely affected. We recognize that the final rule will require manufacturers including their subsidiaries and affiliates to review foreign information bases, but believe the seriousness of fatalities associated with potential defects warrants this requirement. No comments objected to the proposal to report on claims involving death outside the United States, and we are adopting the proposed provisions.

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)

For the reasons discussed in the preamble to the NPRM, we conclude that ''identical'' vehicles and equipment are at least substantially similar, and therefore there is no need to define that term. There were no comments in response to this proposal, and we are adopting it here.

1. Substantially Similar Motor Vehicles

We expect that there will be a limited number of reports involving substantially similar vehicles because the question only arises in the context of reporting claims for deaths occurring outside the United States. Our communications with manufacturers lead us to conclude that such claims are far fewer in foreign countries than in the United States. Thus, the burden associated with reporting such claims should not be large.

In the Foreign Defect Reporting NPRM, we discussed at length the issue of ''substantially similar motor vehicles'' and proposed that motor vehicles would be substantially similar to each other if one or more of five criteria were met. *See* 66 FR 51907 at 911–913. We tentatively determined that four of these criteria would be appropriate for Early Warning Reporting as well, and incorporated our views on these criteria by reference in the NPRM. *See* 66 FR 66190 at 199–200. The fifth criterion, relating to safety recall campaigns was inappropriate for early warning purposes where no campaign had been conducted, and was not proposed. Instead, we developed a new criterion, that a vehicle uses the same vehicle platform as a vehicle sold in the United States. Thus, we proposed that motor vehicles would be substantially similar for early warning purposes, as follows:

> (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.

As noted above, our approach addressed both identical and substantially similar motor vehicles of all types and sizes ranging from small motorcycles to heavy trucks and trailers. It included five alternate criteria. No one alone was sufficient. Some were more straightforward and required less factual information than others. Some would apply more broadly than others. At least one might not apply to certain types of vehicles. Collectively, they would cover the range of vehicles and extend coverage beyond identical vehicles to a range of substantially similar vehicles.

The first three criteria are self-explanatory and are addressed in the Foreign Defect Reporting NPRM. With respect to the fourth criterion, the preamble of that NPRM did not directly explain what we meant by a ''counterpart'' vehicle. However, by example, a discussion appearing on page 51912 provided 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 proposed a definition of ''counterpart vehicle'' for early warning: ''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.'' *See* 66 FR 66200.

As for the fifth criterion, we tentatively concluded that platform-based reporting would be consistent with the breadth of early warning reporting, yet specific enough to provide adequate direction to manufacturers. An example would be the Cadillac Catera, which used the same vehicle platform as the Opel Omega, or the Jaguar S-Class, which shares a platform with the Lincoln LS. We specifically requested 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 did not propose a definition for ''platform.'' We invited commenters to suggest a definition if they believed that a definition of this term was necessary. No commenter suggested a definition.

Nissan, AIAM, the Alliance, and GM provided their views on the issue of how to define ''substantially similar.'' The Alliance commented that ''substantially similar'' is relevant only for identifying vehicles for which fatalities must be tracked and reported on a world-wide basis, and concluded that the definition proposed is overly-inclusive of vehicles that have no nexus to the United States. In its view, only a single definition is needed, and the most appropriate definition is one based on vehicle platform, category (v). To that, it would add that the vehicle must also have the same body shell, except for the number of doors. Thus, the Alliance would define a substantially similar vehicle as one that ''uses the same platform and body shell (except for the number of doors) as a vehicle sold or offered for sale in the United States.'' Alliance members Nissan and GM agreed with the Alliance comment and supported a platform-based approach.

The Alliance commented further that, if NHTSA adopted the Alliance's modified definition of category (v), categories (i) and (iii) would be redundant.

NHTSA disagrees with the Alliance and supporting comments. In our view, such a definition would be under-inclusive. A platform-based definition alone falls short for several reasons. First, other criteria are more certain in their application (when applicable). They do not depend on the meaning of the word ''platform.'' While the term platform is commonly used for some types of light and medium-heavy vehicles, it does not have a universal accepted definition. The fact that the Alliance suggested a single platform-based criterion yet failed to respond to our request for a definition suggests that it recognizes the difficulty of prescribing a universal definition.

In addition, the term platform does not apply to numerous types of vehicles. For example, because motorcycles are not built on what are commonly called platforms as the term is used with light and some medium-heavy vehicles, categories (i) and (iii) would not be redundant, contrary to the assertions of the Alliance. In any event, to the extent they are redundant, they would not add to the ''inclusiveness'' of the definition.

Category (i) specifies that a vehicle sold or in use outside the United States will be deemed substantially similar to one sold in the United States if it has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards (CMVSS). For example, a Ford Expedition certified as complying with the CMVSS and used in Saudi Arabia is substantially similar to a Ford Expedition sold in the United States, because of the near identicality of the CMVSS with the FMVSS. Category (iii) specifies that a vehicle sold or in use outside the United States will be deemed substantially similar to one sold in the United States if it is manufactured in the United States for sale in a foreign country. This is because (to the best of our knowledge, and the comments did not show otherwise) there are no makes and models of motor vehicles manufactured in the United States and sold outside the United States that are not also sold in the United States.

As for category (ii) vehicles, the Alliance incorporated by reference its comments on ''substantially similar'' submitted in response to the Foreign Defect NPRM. In those comments, the Alliance stated that reliance on the list of ''gray market'' vehicles in Appendix A of Part 593 was not appropriate as an automatic definition of ''substantially similar'' because the sole purpose of the Appendix is to list the foreign vehicles that can be readily modified to comply with the FMVSS; ''Using this list to cover vehicles outside the U.S. that are not modified is not appropriate.'' On the contrary, we find it most appropriate. In order to be listed in the Appendix, NHTSA is required to have decided that a gray market vehicle is eligible for importation into the United States on one of two bases. The first basis, which covers all but a few vehicles on the list, is that the vehicle is ''substantially similar to a motor vehicle originally manufactured for import into and sale in the United States.'' See 49 U.S.C. 30141(a)(1)(A)(i). These vehicles are listed in the VSA or VSP columns of Appendix A. If there is no substantially similar vehicle, NHTSA must decide that the safety features of the vehicle comply, or are capable of being modified to comply, with the FMVSS. These approved vehicles are listed in the VCP column of the Appendix. Because these vehicles are not

considered ''substantially similar'' within the meaning of 49 U.S.C. 30141(a)(1)(A)(i), we are modifying category (ii) to clarify that a substantially similar vehicle ''is listed in the VSP or VSA columns of Appendix A to part 593'' (note that each relevant vehicle decision notice under Part 593 amends Appendix A even though the revised Appendix is published only once a year). Reference to the Part 593 list should, in fact, make it easier for a manufacturer to determine if a vehicle that is the subject of a foreign death claim is substantially similar to one sold in the United States; if it is listed as a VSP or a VSA, the manufacturer will not have to consider whether the vehicle qualifies under another category.

In sum, our intent in categories (i) through (iii) is to capture vehicles that are identical or substantially similar in significant respects of design and safety-related parts to vehicles that are sold in the United States.

We next consider the qualifying phrase ''and body shell (except for the number of doors)'' in the Alliance's suggested platform-based definition of substantially similar vehicle. According to Automotive News, ''a platform is typically defined as the basic structure of a vehicle. Different vehicles built off the same platform commonly share several structural elements, such as the floorpan, door pillars, and subframes.'' A commonly-used platform in recent production has been the ''C/K'' series upon which GM has built numerous models including the Cadillac Escalade, the Chevrolet Silverado, Suburban, and Tahoe, and the GMC Sierra, Suburban, Yukon/Denali and Yukon XL vehicles (Source: 2000 *Market Data Book,* Automotive News, May 2000, p. 20; no similar information provided in 2001 or 2002 editions of *Market Data Book*). The Silverado and Sierra vehicles are pickup trucks, with bodies intended primarily for carrying cargo. The other models are sport utility vehicles (SUVs) and have bodies intended primarily for carrying passengers. Thus, there is no common body shell though the platform is common. Historically, both pickup truck and SUV vehicles built on this GM platform have many common components such as brakes and airbags. Most recalls involving the pickups have also covered the SUVs. Yet, C/K SUV vehicles would not be substantially similar to the C/K pickup trucks under the Alliance's restrictive criterion because they do not have the same bodies. However, as noted in Automotive World (September 1999), a platform includes the majority of the floor pan and engine compartment and is a unit that has no impact on the vehicle's outer skin. In view of the above we are adopting, as a criterion, category (v) as proposed. For clarity, we are adopting the following definition of ''platform,'' as

> the basic structure of a vehicle including, but not limited to, the majority of the floorpan or undercarriage, and elements of the engine compartment. The term includes a structure that a manufacturer designates as a platform. A group of vehicles sharing a common structure or chassis shall be considered to have a common platform regardless of whether such vehicles are of the same type, are of the same make, or are sold by the same manufacturer.

Examples of vehicles sharing a common platform are the Chrysler Group's Plymouth, Dodge, and Chrysler minivans, the Volkswagen Golf and Beetle and Audi A3 and TT passenger cars, and Toyota Camry vehicles (including Toyota Camry and Avalon passenger cars, Toyota Sienna minivans, Toyota Highlander SUVs, Lexus ES 300 passenger cars, and Lexus RX 300 SUVs).

TMA pointed out that manufacturers of medium-heavy vehicles, buses, and trailers generally do not use the term ''platform'' to describe their products. Nor do manufacturers of motorcycles. The terminology used by manufacturers is not determinative in this context. In addition to reporting on the basis of a structure that a manufacturer designates as a platform, we expect these manufacturers to report foreign deaths involving vehicles built with a structure similar to those used in the United States. To guard against possible underreporting of such incidents, we are including the word ''chassis'' in the definition of ''platform'' in this rule.

We note that category (v) will have an extraterritorial application. For example, we understand that Volkswagen uses a common platform for some of its range of Volkswagen, Audi, Seat, and Skoda passenger cars. Although the latter two marques are not certified for sale in the United States, some models may be ''substantially similar'' to Volkswagen and Audi models built on a common platform and sold in the United States.

As for category (iv), the Alliance stated that it did not know what it means for a vehicle to be ''equivalent'' to one manufactured for sale in the United States; two vehicles could be dissimilar in the structural and performance attributes that should matter for reporting requirements. AIAM had a similar criticism of category (iv), and urged NHTSA to adopt a ''simple, objective definition.'' We have reviewed these comments, and believe that any vehicle that might qualify for this category would also qualify under at least one of the other four categories that we are adopting. The final rule, then, omits proposed category (iv) (proposed category (v) becomes (iv) under the final rule).

If a manufacturer has ceased to export any certified vehicles to the United States (such as Alfa Romeo), its early warning reporting obligations will also cease after ten years (i.e., assuming that Alfa Romeo exported no certified vehicles to the United States after the 1995 model year, its early warning reporting obligation would terminate in 2005).

2. Substantially Similar Motor Vehicle Equipment Other Than Tires

We also proposed that:

> 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.

We commented in the preamble to the NPRM that the breadth provided by this definition seemed necessary given the nature of claims, which often do not identify particular problematic components. Thus, we would regard foreign child restraint systems as substantially similar (if not identical) to U.S. child restraint systems 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, we requested comments on the appropriate formulation of test(s) for determining whether foreign motor vehicle equipment is substantially similar to U.S. equipment.

JPMA generally supported the proposed definition but asked that the preamble and the final rule make clear that ''the reporting requirement applies only when the same component or system that gave rise or contributed to the fatality is used in foreign and U.S. models manufactured by that

manufacturer.'' Otherwise, the definition would give rise to two problems. We shall discuss each asserted problem separately.

The first problem as JMPA sees it is that ''absent clarification, the reporting obligation could be construed to apply to foreign child restraints incorporating common components with U.S. child restraints manufactured by another, unrelated manufacturer with whom the foreign manufacturer shares a supplier.'' JPMA observes that ''Since the manufacturer of the foreign child restraint may not even know that the model shares components with U.S. models manufactured by unrelated companies, it cannot be NHTSA's intention to hold manufacturers responsible for information they do not possess.'' That is correct.

The second problem, according to JPMA, is that

> without clarification that a report is required only when a fatality is associated with the same component as one used on a model sold by that manufacturer in the U.S., the reporting requirement could result in fatality reports that have no reasonable chance of predicting possible defect trends in the U.S. because they involve components that are not common to U.S. models.

JPMA thus raises the possibility that a manufacturer will report a fatality attributable to a component other than one that makes two child restraint systems ''identical or substantially similar.''

In this situation, we would read the word ''equipment'' both as the completed item of motor vehicle equipment and as each individual component that comprises the item. The statute provides for a report ''when the possible defect is in * * * motor vehicle equipment that is identical or substantially similar * * *'' The child restraint systems are identical or substantially similar equipment because they share a common component. We will not relieve the manufacturer of reporting because the claim may not identify the problematic component; the identification of the component will result in delay and may be disputed. We have decided, however, that a claim would not have to be reported if it specifically identifies a non-common component as the defect. Although this issue was raised by an equipment manufacturer, it applies equally to vehicles. Thus, new Section 579.28(g) applies to all manufacturers.

MIC commented that, ''as proposed, equipment that has one or more components or systems that are the same regardless of whether the part numbers are identical is considered substantially similar.'' It asked ''if the only commonality is a single type of fastener that neither failed nor contributed to the incident, are the components or equipment substantially similar? It would be our view that they are not.'' For the reasons expressed in the paragraph above, the equipment incorporating the fasteners would be substantially similar for early warning reporting unless the claim specifically identified a non-common component as the source of the failure.

MEMA stated that the definition should not only be component or system specific, but application specific as well. It cited a remark in the Foreign Defect NPRM preamble to the effect that a bolt with a given part number may perform in substantially different ways depending on how and where it is used, as well as citing a comment by Breed to the ANPRM that a component may be used in a variety of applications but fail in only one. MEMA recommended adopting application language to the definition:

> 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, and the component or system has the same application requirements in vehicles sold or offered for sale in the United States, regardless of whether the part numbers are identical.

AIAM recommended as a definition ''equipment that is identical, except for labeling, markings, or such features as displayed metric vs. U.S. units of measure, and performs the same function in the respective vehicles.''

The issue raised by MEMA and AIAM is analogous to that raised by JPMA, but instead of a defect occurring in a non-common component, it posits a defect occurring in a common component not used in a common manner. As such, it does not address the issue raised by JPMA. Further, it appears to restrict the definition to on-vehicle original and replacement equipment, and not to include equipment that is not part of a motor vehicle such as child restraints.

If two items of equipment utilize the same component but that component is not used to perform the same function, the failure of the component in one context might have no bearing on the likelihood of its failure in the other context. However, it might not be clear at the time the claim is filed whether the component is performing the same function or not. Therefore, we are reluctant to add this exemption. We emphasize, however, that we expect to receive very few reports of claims from equipment manufacturers involving foreign deaths.

We are therefore adopting as new Section 579.4(d)(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, and the component or system performs the same function in vehicles or equipment sold or offered for sale in the United States, regardless of whether the part numbers are identical.

3. Substantially Similar Tires

We proposed that:

> 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.

RMA was the sole commenter on the proposed definition. In its opinion, NHTSA's definition would include tires that are, in fact, substantially different. It noted that two tires of the same tire line and with the same size designation could include tires constructed of different materials. One tire could have a casing made of steel carcass plies, while another's might be of fabric carcass plies. RMA argued that comparisons between these tires, for early warning reporting, would be meaningless, and stated that ''construction'' is the factor that would best aid in early warning. ''Construction'' to RMA means ''the same number of plies and belts, ply and belt construction and materials, placement of components, and component materials.'' RMA proposed the following definition:

> 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 size, speed rating, load index, load range (for light truck tires) and construction irrespective of plant of manufacture or tire line name.

NHTSA has decided to follow RMA's recommendation in part. We are integrating the definition of ''construction'' into the text, so that the regulation (Section 579.4(d)) reads as follows:

> (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 size, speed rating, load index, load range, number of plies and belts, and similar ply and belt construction and materials, placement of components, and component

materials, irrespective of plant of manufacture or tire line name.

We have added the word ''similar'' before ''ply and belt construction and materials'' to assure that minor differences in dimensions, construction, or materials would not allow tire manufacturers to avoid reporting of foreign claims involving deaths.

I. Claims 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''

In the preamble to the NPRM, we discussed the proposed definitions of property damage recommended by commenters on the ANPRM. On the basis of our own review and these comments, we proposed to require only reporting of claims information and not reporting of incidents involving only property damage of which a manufacturer receives notice. *See* 66 FR 66200.

For purposes of this rule, we proposed that property damage means ''physical injury to tangible property.'' Our proposed definition of ''property damage claim'' 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 or both. Accordingly, ''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.

Comments were submitted by the Alliance, Nissan, VW, AIAM, the JPMA, RMA, TMA, Spartan, Utilimaster, and CU.

Nissan stated that the proposed definition of property damage claim was overly inclusive and potentially difficult to understand. The comment argued that the proposed definition did not exclude claims pertaining solely to damage to a component or system of a vehicle based on the alleged failure. Similarly, Spartan recommended that the category be redefined to exclude allegations of simple failure or breakage of a component (such as mechanical breakdown typically covered by a manufacturer's warranty), since such incidents would likely be picked up under other categories. Nissan's comment also noted that the proposed definition does not address damage to one system caused by another system under normal use, and whether or not the damage occurred within the warranty period. The company recommended that the proposed definition of ''property damage claim'' be modified to read: ''a claim that a part, component or system failure led to crash damage or body damage to a vehicle or damage to the property of a third party.''

We do not understand Nissan's assertion that the proposed definition does not exclude claims pertaining solely to damage to a component or system of a vehicle based on its alleged failure or Spartan's suggestion that such matters be excluded, because we believe that they are excluded. Nissan also commented that the proposed definition does not address damage to one system caused by another system under normal use, but it does. Damage is excluded from property damage claims if the damaged component, system, or equipment item has damaged itself, but not beyond that.

CU expressed concern that a loophole in the reporting requirement will be created if the definition of property damage does not include damage to the vehicle component itself. For example, if the brakes failed after the vehicle warranty had expired and there is no physical damage to the vehicle other than the need to repair the brakes, NHTSA would have no way of knowing about this incident. With regard to CU's comment, the agency notes that the NPRM stated its intention to include in the definition of property damage ''damage to the vehicle or other tangible property, but exclude equipment failure and matters solely involving warranty repairs.'' *See* p. 66201. The preamble elaborated on this by stating: ''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.'' *Id.* The ''loophole'' identified by CU was therefore an intentional part of the proposed rule, which assures that property damage claims are not diluted by matters involving worn out parts without other consequences. Of course, these matters would normally be reported to us as complaints, and sometimes as warranty claims.

Spartan recommended that the category be limited to incidents involving a collision, tire failure, or fire occurring in the United States in which a defect is alleged in one of the critical safety systems (brakes, steering, occupant restraint, fuel) and that the reporting requirement should apply only to claims submitted to the manufacturer in writing. Spartan provided no rationale for its recommendation that the category should be limited to the number of such incidents involving a limited number of safety-related systems. For each of the covered vehicle classes, the NPRM listed separate systems and components the alleged failure of which would trigger the reporting requirements. As the agency explained, in selecting these systems and components, it ''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.'' *See* preamble at p. 66207. Spartan has not explained why this approach should be abandoned in favor of one that would require, for all vehicle classes, reports on only brake, steering, occupant restraint, and fuel system failures. Finally, because the term ''claim'' would be defined in the proposed rule as ''a written request or demand for relief,'' Spartan's recommendation that the reporting requirement should apply only to property damage claims submitted to the manufacturer in writing has already been addressed in the proposal.

The Alliance recommended that the proposed definition of ''property damage'' be modified to read: ''(1) physical damage, including damage by fire, to tangible property of a third party caused by a collision or an alleged failure or malfunction of a component, system or item, or (2) body or fire damage to a vehicle caused by an alleged failure or malfunction of a component, system or item.''

The Alliance's recommended changes would introduce elements of causation into determinations whether to report. This information might not be presented in a claim and, thus, the Alliance's formulation could result in under-reporting. *See* 66 FR 66195, 66199. Moreover, in the NPRM, the reporting requirement was based on the term ''property damage claim,'' which is defined separately from and incorporated the definition of ''property damage.'' Because the proposed definition of ''property damage claim'' contains language linking the reportable claims to those alleging malfunctions of components or systems, or to specific events, it would be redundant if this qualification were also to be included in the definition of ''property damage,'' as the Alliance has proposed. Finally, if the Alliance's recommended changes were adopted, physical damage to the

property of a third party caused by means other than a collision or an alleged failure or malfunction of a component or system or to specific events, and physical damage to a vehicle, other than body or fire damage, would not be reportable. The Alliance provided no justification for the changes it recommended in the proposed definition or reasons why those limiting changes should be adopted. Moreover, it did not show how the changes would help effectuate the purposes of the early warning reporting rules.

RMA stated that it did not object to the definition if it can be interpreted to mean ''* * * a claim for monetary compensation in excess of the value of the tire.'' Nevertheless, it urged NHTSA to adopt a separate definition for clarity, to read as follows:

> A claim for property damage for motor vehicle equipment means a claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to the item of motor vehicle equipment itself, based on the alleged failure or malfunction of the item of motor vehicle equipment, and further excluding matters under warranty.

RMA did not explain why a separate definition was needed. We note once more that the definition proposed in the NPRM would exclude claims pertaining solely to damage to an equipment item based on the alleged failure or malfunction of that item. Creating a separate definition for equipment items may increase the burden for manufacturers by requiring analysis of individual claims to ascertain whether they alleged the failure or malfunction of an equipment item itself, as opposed to the failure or malfunction of a ''component, system, or item.'' We further note that eliminating the reference to vehicle components and systems could increase the reporting burden on manufacturers by narrowing the scope of claims excluded by definition. In light of these circumstances, we do not believe that there is a need to separately define ''property damage claim'' for motor vehicle equipment items, and will retain the reference to vehicle components and systems within the definition we are adopting.

The property damage information that we will require manufacturers to submit is limited to the number of claims involving a limited number of systems or components, fire, and rollover (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.

Finally, as noted above, the proposed definition expressly excludes ''matters addressed under warranty.'' Nissan faults the agency for failing to address whether or not the damage occurred within the warranty period. The reason for this exclusion was simple; it was to eliminate a burden that would amount to double counting. So long as the matter is covered by warranty (including an extended warranty or good will program conducted by the manufacturer, as addressed below), it will be subject to being reported to the agency as a warranty claim. If the incident leading to a claim occurs beyond the warranty period (including the terms of any applicable extended warranty or good will program), and thus is not covered by warranty, it must be reported as a property damage claim if the elements for such reporting are met.

For the reasons discussed above, we are adopting the definition of ''property damage claim'' that we proposed.

2. Reporting of Property Damage Claims; Whether To Establish Dollar-Value Thresholds

Unlike reporting of claims and notices of incidents involving deaths and injuries, which are required even in the absence of information identifying underlying systems or components, we will require reporting of property damage claims only when one or more specified vehicle components or systems has been identified as giving rise to the incident or damage, or there was a fire (originating in or from a vehicle or a substance that leaked from a vehicle) or rollover. We concluded that adding a category such as ''other'' would not provide us with usable information. These components and systems were selected based upon their connection to safety recalls in the past, as described in Section IV.N 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 need only report the incident as one involving a death or injury, and it will not be required to report the incident under the property damage requirement. However, if several separate property damage claims are filed arising out of the same incident (e.g., because a vehicle damaged property owned by several individuals), each claim must be included in the report.

Reports of property damage claims will be submitted in the same manner as the number of consumer complaints, warranty claims, and field reports, discussed later. The information will be reported separately for each make, model, and model year and would be submitted in electronic form, as discussed in Section VI below. Manufacturers are not required to submit documents reflecting the extent of the property damage or the details of the incident that allegedly led to the damage. (As discussed below, we can require the submission of such documents or information in a separate request if we decide that further detail is needed.)

With respect to manufacturers of motor vehicle equipment, we proposed to require only manufacturers of tires to report property damage information, noting that it is extremely unlikely that a child restraint system would contribute to significant property damage.

The preamble to the NPRM stated that the agency was proposing ''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.'' See preamble at 66201. However, the proposed regulatory text in the NPRM did not include a dollar-value threshold for reporting. The NPRM requested comments on whether it is appropriate to establish such an exclusion, and if so, what the level should be. *Id.*

The Alliance stated that there should be a threshold to filter claims. The comment stated that the threshold should be $2,500 to filter out the minor fender bender type accidents, and that NHTSA should periodically raise the threshold to consistently filter minor claims. AIAM also recommended a $2,500 threshold to exclude minor claims, and stated that NHTSA should consider periodic review of the threshold to account for inflation and other relevant changed circumstances. Volkswagen also supported a $2,500 threshold to exclude de minimis claims. Nissan stated that the threshold amount should be higher than $1,000.

TMA stated that the threshold for reporting property damage claims needs to be related to the purchase price of the vehicle rather than a fixed price for all vehicles. The comment observed that a $1,000 threshold would not be appropriate for medium and heavy-duty trucks, which often cost in excess of $100,000. The comment recommended a $5,000 threshold for these vehicles. The comment also recommended that the reporting threshold not be relegated to the preamble of the final rule, but instead be incorporated into the regulatory text.

Utilimaster also stated that the proposed $1,000 threshold for the submission of property damage claims

''is too low to avoid sweeping in minor matters NHTSA seeks to avoid.'' The comment stated that the threshold should be raised to $5,000 to provide the agency with meaningful data on significant incidents. Spartan also recommended that a dollar threshold be set (at perhaps $2,500) to limit the reporting of minor claims.

With respect to claims involving tires, the NPRM noted that ''[t]ire manufacturers have historically kept records of all property damage claims, without regard for the amount of the claim, and that this information has proven to be very valuable in identifying potential tire defects.'' *See* preamble at p. 66201. As a consequence, the agency stated that it was ''proposing to require tire manufacturers to report all property damage claims, regardless of the amount of the claim.'' *Id.* As noted above, the RMA stated that it would not object to the proposed definition if it were interpreted to mean a claim for monetary compensation in excess of the value of the tire.

AIAM commented that according to insurance industry data, approximately half of all physical loss payments by insurers are for $1,000 or less. After accounting for the common $500 deductible, the actual median damage loss is $1,500. Accordingly, AIAM recommended that NHTSA select a higher threshold, specifically $2,500, and that that threshold be stated in the definition of ''property damage claim.''

After thoroughly considering the comments, we have concluded that we should not adopt any dollar-value threshold for the reporting of the number of property damage claims, and note that no such criterion is imposed by the TREAD Act. Although the final rule will result in a higher number of property damage claims being reported to the agency than there would have been under the proposed threshold of $1,000, manufacturers will be relieved of the burden to evaluate property damage claims to determine whether the dollar-value threshold had been met. This could entail a considerably greater commitment of resources than if the manufacturer were simply required to report the raw number of property damage claims it received. Many claims do not include a dollar value, so if a dollar-value threshold were established, the follow-up on and reporting of such claims or those that referred to damage in other than dollar terms would have to be addressed. This also resolves the knotty issues of whether we should establish different dollar-value thresholds for different types of vehicles such as motorcycles and heavy trucks, and how we should do so. However, we may revisit the issue in a future rulemaking.

With regard to property damage claims involving tires, the RMA stated that it would not object to the proposed definition if it were interpreted to mean a claim for monetary compensation in excess of the value of the tire. The agency notes that under the proposed definition, a tire manufacturer would not be required to report a property damage claim relating solely to damage to a tire that is based on the alleged failure or malfunction of the tire. Moreover, any claim for damage to the tire itself is likely to be handled within the manufacturer's adjustment program, and as such, would not be separately reportable to the agency as a property damage claim.

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 proposed, and will require, that tire manufacturers report all property damage claims, regardless of the amount of the claim.

J. Consumer Complaints

We proposed to require submission of information about certain ''consumer complaints'' as ''other data'' under Section 30166(m)(3)(B).

1. Definition of ''consumer complaint''

In the NPRM we proposed a definition of ''consumer complaint'' that included relevant matters and did not overlap with our proposed definition of ''claim.'' We proposed to define ''consumer complaint'' as follows:

> 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.

We explained that 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. Our proposed definition 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.

Our approach was to set forth a multifaceted definition of consumer complaint and then to limit reporting to safety-related aspects of vehicles, tires, and child restraint systems. The facets of the definition included expressions of dissatisfaction with a product or its performance, and an assertion of a defect or that an event was caused by a defect. Based on our past experience during defect investigations, we did not believe that it would be appropriate to simply require reporting of ''safety-related'' problems, since manufacturers often have a narrower view of what constitutes a safety-related problem than we do. As we explained, we would reduce the likelihood of reporting consumer complaints about non-safety matters by listing the specific safety-related components and systems with respect to which complaints must be reported. Finally, the primary distinction between a ''consumer complaint'' and a ''claim'' is that the former would not seek monetary or other relief.

Ten comments were submitted on the proposed definition of ''consumer complaint.'' These were from AIAM, the Alliance, GM, CU, Volkswagen, Nissan, NADA, JPMA, Spartan, and Utilimaster. CU favored the proposed requirement for the collection of consumer complaint information. The remaining comments were either opposed to the collection of this category of information in its entirety, or opposed the collection of certain types of information within the proposed definition.

2. The Rationale for Requiring Reports of Consumer Complaints

As we have explained, 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 Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Oversight and Investigations of the House Committee on Commerce, (H. Rpt.106–165; September 6, 2000) (Statement of Dr. Sue Bailey, Administrator, NHTSA).

After reviewing the comments received on the ANPRM and assessing the value of consumer complaints to an early warning system, we proposed requiring manufacturers of 500 or more vehicles as well as all child restraint system manufacturers to provide aggregated consumer complaint information to us on a periodic basis, but not to require copies of such complaints. NHTSA relies heavily on consumer complaint information in initiating and conducting defect investigations. 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.,* 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 restraint system manufacturers have also consistently far outnumbered those to NHTSA about particular problems. For example, in November 1996, ODI opened an investigation into the breakage of harness release buttons 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 did not propose to require tire manufacturers to report the number of consumer complaints. We had 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, line, plant, 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 therefore proposed 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 did not propose to require reporting of consumer complaints from outside the United States at this time. We observed that 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, which dictate against requiring reporting, at least for the present.

In commenting on the NPRM, a number of commenters repeated their comments on the ANPRM, which we had previously rejected. AIAM expressed the opinion that consumer complaints are not valuable; i.e., that they should be excluded from the reporting rule on the basis that they do not provide objective information regarding vehicle safety performance and that they would be expected to provide little, if any, useful information for an early warning reporting system. The organization contended that the overwhelming majority of the complaints received by its members do not relate to safety information, and that the need to filter this material to provide the agency with safety-related information would place an unreasonable burden on manufacturers. The Alliance also questioned the value of consumer complaints in identifying a defect trend. It contended that consumer complaints are not technically reliable because they are based on the subjective observation of a problem by a consumer, and are collected by personnel who lack sufficient technical training or knowledge to translate the information provided by consumers into meaningful or accurate component or system codes.

Several manufacturers offered similar comments. Volkswagen questioned the reliability of consumer complaints to establish the existence of a defect trend. The comment urged the agency to exercise caution in drawing any conclusions from the raw, unfiltered consumer complaint numbers that

manufacturers would be required to provide under the proposed rule, especially since manufacturers would not be given the opportunity to rebut those numbers. Nissan expressed the opinion that consumer complaints are often subjective, not technically precise, and difficult to code for the purpose of providing the agency with meaningful early warning information because they are generally not linked to identifiable components or systems, and are not received by technical personnel. Spartan observed that consumer complaints could cover a large volume of material that does not affect safety, and are often of questionable validity, requiring extensive screening to identify useful information at a considerable expense to the manufacturers. The comment contended that what useful information there is in this category is likely to overlap one of the other reporting categories.

The comments that questioned the value of consumer complaints in identifying potential defect trends did not address the justifications set forth in the NPRM that we have summarized above. Significantly, none of the comments on the NPRM refuted the rationale in the NPRM. As far as the agency is concerned, the utility of consumer complaints for early warning purposes is not diminished by the fact that they are based on the observations of vehicle users as opposed to persons with technical training or experience. Such observations are often what first alerts the agency to the possible existence of a safety-related defect, especially when warranty coverage is not or no longer available. As such, consumer complaints about safety-related systems and components constitute an essential part of the proposed early warning reporting system. If the agency were to overlook consumer complaints in anticipation of receiving a more technically developed analysis of a potential safety problem from a manufacturer, an entire mechanism for early warning would be eliminated.

NADA asserted that NHTSA has no need to obtain consumer complaint information from manufacturers as it has direct access to this kind of information from complaints made to the agency's Website and to the Auto Safety Hotline. AIAM also noted that NHTSA already receives consumer complaint information as militating against the need for manufacturers to submit this information to the agency. AIAM contended that the agency's database is a better source of early warning information than the manufacturer's database because consumers are less likely to complain to NHTSA about non-safety-related problems. GM commented that if NHTSA were to eliminate the need for manufacturers to report on consumer complaints, it could still obtain this information from vehicle owner's questionnaires (VOQs) that are submitted to the agency.

As stated in the NPRM, ODI's experience has shown that consumers are more likely to report a problem to the manufacturer than to NHTSA, and that many consumers do not complain to NHTSA until after they have complained unsuccessfully to the manufacturer. *See* NPRM at p. 66203. The NPRM further noted that we have observed that the number of consumer complaints to the manufacturer usually exceeds by a substantial margin the number of complaints made directly to the agency before the investigation is opened. *Id.* The agency observed in the NPRM that its ''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.'' *Id.* For these reasons, although the agency will continue to receive complaints through the agency's website and the Auto Safety Hotline, manufacturer complaint data will provide a valuable additional tool for assessing whether a potential safety-related defect exists.

Other comments questioned the need for consumer complaints to be separately reported to the agency, on the basis that the information in this category would duplicate that in other categories manufacturers would be obligated to report. GM contended that because the proposed rules define the term ''claim'' so broadly, requiring the separate reporting of consumer complaints is unnecessary, and increases the chances of duplicate reporting. GM observed that a single incident could involve a consumer complaint, a warranty claim, and a lawsuit, all of which would be required to be reported under the proposed rule. The Alliance also observed that the consumer complaint database is likely to have redundancies with other information in other databases. As a consequence, the comment suggested the agency could establish the early warning rule without requiring the reporting of consumer complaint information, and adopt this requirement at a later date if still had a need for the information.

GM's contention about the overlapping breadth of the definition of ''claim'' is erroneous. In both the NPRM and the final rule a ''claim'' is limited to a written communication seeking some form of relief from the manufacturer. Thus, a ''claim'' is considerably narrower than the proposed definition of ''consumer complaint,'' which would encompass ''a communication of any kind * * * 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.'' Moreover, the proposed definition explicitly excluded claims, to avoid double counting.

The agency is unwilling to adopt the recommendation that the complaint must allege a safety-related defect, as this would unduly limit the reporting of consumer complaint information that NHTSA is seeking to collect through the early warning reporting rule. As stated in the NPRM, based on its past experience with defect investigations, the agency does not ''believe that 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 that we do.'' *See* preamble at 66202. If the term ''consumer complaint'' were limited to complaints specifically alleging a safety-related defect, communications expressing dissatisfaction with a product or relating that the product did not perform in a satisfactory manner would not necessarily be reported to the agency. Such communications may be equally indicative of a potential safety-related defect as ones specifically alleging the existence of such a defect.

If we were to adopt such a restrictive definition for the term ''consumer complaint,'' we would deprive ourselves of information that could be of considerable value in identifying a defect trend. Moreover, by adopting such a definition, the process of reviewing consumer complaint information to respond to the reporting requirement would be transformed for manufacturers into little more than a search for specific phrases such as ''safety-related defect'' in the communications they receive, and equip them with the means to potentially evade the reporting of legitimate complaints. However, we note that reporting would only be required if the communication expressing dissatisfaction related to unsatisfactory performance, related to any actual or potential defect, or any event that allegedly was caused by any actual or potential defect in a product. Also, it

must relate to one of the reporting areas (e.g., service brakes). Thus, contrary to the suggestions of a commenter, consumer complaints on stain resistance alone are not to be reported.

The Alliance and JPMA recommended that the proposed definition of ''consumer complaint'' be changed to eliminate any reference to those expressing ''general dissatisfaction'' with a product. JPMA contended that including complaints such as these would distort the data because they would have to include everything from complaints about the shell or pad color, the comfort of the handle, stain resistance of the fabric, or other general consumer complaints that involve one of the reportable categories, but can have no possible bearing on a possible defect trend. The Alliance recommended that if the consumer complaint reporting requirement is retained, it should be limited to complaints addressing a problem with a motor vehicle. Similarly, Utilimaster asked the agency to clarify, either in the preamble of the final rule or in its regulatory text, that mere suggestions for product improvements, without reference to a current product deficiency, will not be considered reportable consumer complaints. The company noted that many of the consumer complaints that it reviews do not relate to safety issues or concerns, and that the submission of this type of information would ''clutter the agency's data bank with irrelevant material.''

The thrust of these comments is unclear, as they appear to address, at least in substantial part, matters on which reporting would not have been required under the NPRM. As the agency noted in the NPRM, the fact that manufacturers would only need to report consumer complaints relating to specific safety-related components, systems or events (e.g., fire) will assure that only potential safety-related problems are included in numerical reports to the agency. *See* preamble at 66202. This does not include shell or pad color or similar matters. With regard to Utilimaster's comment, we note that the proposed definition of consumer complaint would not encompass communications suggesting a product improvement that do not refer to a product deficiency. For example, a communication that a third seat in a minivan should fold down as opposed to being capable of being removed would not have to be reported. Accordingly, there is no need to modify the proposed definition in response to that comment.

GM and Nissan commented that if NHTSA were to require the submission of consumer complaint information, it should limit the reporting requirement to complaints that are made to the manufacturer's office designated to handle consumer complaints. Nissan observed that this would assure that manufacturers do not have to poll every employee on a quarterly basis who might have heard from a friend, neighbor or stranger about some dissatisfaction with a product that might fall within the proposed definition. GM contended that the proposed reporting requirement would be unworkable if it required a manufacturer to memorialize every consumer contact with any of its employees.

The agency is accepting the recommendation by GM and Nissan that it limit the areas in which a manufacturer must search in ascertaining the number of complaints it has received. In our view, this includes communications addressed to the office designated in an owner's manual, written communications to the corporation that in the ordinary course are routed to the office that ordinarily processes complaints, oral communications to offices, such as consumer relations telephone lines, that ordinarily receive complaints, and electronic communications to the corporation's web site or to its general e-mail address/account that ordinarily receives complaints, and, of course, all complaints actually received by the office that handles such complaints. We have, accordingly, modified the proposed definition of ''consumer complaint'' to specify that the reportable communications are those made ''to or with a manufacturer addressed to the company, an officer thereof or an entity thereof that handles consumer matters, a manufacturer website that receives consumer complaints, a manufacturer electronic mail system that receives such information at the corporate level, or that are otherwise received by a unit of the manufacturer that receives consumer inquiries or complaints, including telephonic complaints * * *.'' The agency wishes to emphasize that this definition encompasses written complaints addressed to the manufacturer generally or to an officer of the company (e.g., to ''XYZ Company'' or to ''President'' or to the president by name) and telephonic complaints that, in the normal course of business, are directed or routed to the office that receives consumer inquiries or complaints. If we find that this modification leads to abuses by manufacturers, we will take appropriate action in the future.

NTEA, representing final stage manufacturers, in its comment to the ANPRM 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. Since the final rule only requires 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 the manufacturer of the completed vehicle than to the manufacturer of the chassis. To assure that important information is submitted, we are adopting our proposal to require that each vehicle manufacturer covered by the regulation report on all consumer complaints (and other specified information) that it receives.

Separate questions arise with respect to child restraint systems. We proposed ''to require * * * all child restraint system manufacturers, to report the number of consumer complaints that the manufacturers have received about designated components and systems of their * * * equipment during each reporting period.'' *See* NPRM at p. 66203. We also stated that we were proposing to require ''all child seat * * * manufacturers to report aggregated warranty claims data from the U.S. on certain specified components and systems.'' See p. 66205. The implication of these statements was that child restraint system manufacturers, like other manufacturers subject to the proposed reporting requirements, would separately report consumer complaint and warranty claims data. Despite the preamble statements, text that would require the submission of consumer complaint and warranty claims data was inadvertently omitted from the proposed regulatory text of Section 579.26, specifying the reporting requirements for manufacturers of child restraint systems.

After JPMA brought this discrepancy to our attention, we orally confirmed that the preamble statements proposing to require child restraint system manufacturers to submit both consumer complaint and warranty claims data reflected the agency's intent, and that the agency contemplated that this

information would be separately reported. Thereafter, in its comments, JPMA recommended that child restraint manufacturers be allowed to combine the reporting of consumer complaints and warranty claims because most of these manufacturers routinely treat both categories of information the same, and therefore capture it in a single database that cannot reasonably be segregated. To avoid the need to impose an additional sorting burden on child restraint system manufacturers, we are requiring reporting on the combined number of consumer complaints and warranty claims that they receive. Accordingly, for manufacturers of child restraint systems, we are modifying the text of proposed Section 579.26 (Section 579.25 in the final rule) by designating proposed paragraph (c) as paragraph (d), and adding a new paragraph (c) covering the submission of the combined number of consumer complaints and warranty claims.

K. Warranty Claims Information

We proposed to require submission of information about certain ''warranty claims'' as ''other data'' under Section 30166(m)(3)(B).

1. Definitions of ''warranty,'' ''warranty claim,'' and ''warranty adjustment''

We proposed definitions of warranty and warranty claim. After reviewing various definitions of ''warranty,'' and comments on the issue, we proposed 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 tailored that definition to the subject matter at issue and proposed 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.

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 proposed that ''warranty claim'' means ''any claim presented to a manufacturer for payment pursuant to a warranty program, extended warranty program, or good will.''

The Alliance, NADA, Honda, RMA, MIC, Nissan, RVIA, Harley-Davidson, and Spartan provided comments on this issue.

The Alliance commented that the term ''warranty'' is a term of art that has significance for other statutes and regulations, so that it is important not to include in the definition factors that are not part of a manufacturer's existing warranty system, and it recommended three changes to NHTSA's proposed definition.

First, it asserted that the definition needs to specify that a warranty is provided by a manufacturer ''without separate consideration'' in order to capture what is considered to be a ''warranty'' in the ordinary course of business, and to exclude certain ''insurance-type'' products that can be purchased separately by an owner. This could reduce the number of warranty claims manufacturers must report, as it would appear to limit warranty reporting to the basic warranty offered with the vehicle, rather than include the optional warranties offered on motor vehicles and motor vehicle equipment. The Alliance was concerned with ''insurance type'' products that can be sold separately.

Second, the Alliance contended that the portion of NHTSA's proposed definition referring to ''repair, refund, or replace'' should be deleted because it is unclear and appears to include remedial activity, which the Alliance asserted is not part of the warranty process. It asserted that including reports on safety or emissions recall activity would contaminate the system and devalue its ability to predict possible defect trends.

Finally, the Alliance argued that the reference to ''dealers and distributors'' should be deleted because they do not have the authority to alter the terms of a manufacturer's warranty. This would clarify that repairs under independently provided service contracts are not reportable. Similar comments were made by NADA, Nissan, Harley-Davidson and MIC. Nissan added that reporting activities under a warranty offered by someone other than a ''manufacturer'' would not be appropriate and would create confusion and unnecessary complications. Harley-Davidson stated that a warranty claim based upon a warranty representation or extended service plan offered by a person other than entities over which the manufacturer has control should be excluded. In sum, the manufacturers argued that only those warranties authorized and offered by a manufacturer should be reported.

Thus, the Alliance suggested an alternate definition for ''warranty:''

Any written affirmation of fact or written promise provided without separate consideration in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer 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), but does not include any written materials related to a notification and remedy campaign conducted in accordance with Parts 573 and 579.5 of this Chapter.

As for the Alliance's first point, in our view, NHTSA's proposed definition already excludes third-party ''insurance type'' products. The definition states that the warranty has to be made ''by the manufacturer.'' Unless a manufacturer (including one of its subsidiaries or affiliates) has provided such products, it will not have to report on them. Furthermore, we see no difference between a warranty that is offered without separate consideration and one that does. We realize that there are warranties offered by the manufacturer for an additional price that offer more coverage than a basic warranty. Information on claims under such supplemental warranties would be valuable to NHTSA in spotting a potential defect.

The Alliance's second point concerns the latter part of our proposed definition of ''warranty'' which would include:

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.

This language, with only minor alterations to tailor it to the Vehicle Safety Act, was taken from the language of the Moss-Magnuson Act's definition of ''warranty.'' As stated in the preamble to the NPRM, we believe that most manufacturers should be familiar with this definition because of the Moss-Magnuson Act's applicability to their warranties. As a result, we disagree with the Alliance's assertion that this is unclear. The Alliance offers no basis for disputing the clarity of the second half of the definition of ''warranty'' that we proposed.

We agree with the Alliance that it would not be appropriate to report recall work that is accounted for under a manufacturer's warranty system. Manufacturers should remove those claims that relate only to work performed under a recall campaign that has been reported to NHTSA under 49 U.S.C. 30118 and 49 CFR Part 573 (or performed pursuant to emissions-related recalls under the Clean Air Act).

As for the Alliance's third point, we agree that manufacturer-provided warranties are distinguishable from other service-oriented products offered by dealers. A manufacturer is the person responsible for its warranty on its products. Reimbursement under a service contract offered by a dealer or a distributor not backed up by a manufacturer need not be reported to NHTSA. Accordingly, the final definition of ''warranty'' contains no reference to distributors or dealers.

RMA suggested that tire manufacturers should be required to report ''warranty adjustments,'' rather than warranty claims, to more accurately reflect the tire industry's practices and terminology. ''Warranty adjustments'' would be defined to mean ''payment or other restitution made by a tire manufacturer to a consumer, or to a dealer in reimbursement for payment or other restitution made to a consumer, pursuant to a warranty program, extended warranty program, or good will. In RMA's view, ''When NHTSA seeks warranty information from tire manufacturers, the data it seeks and reviews is ''warranty adjustment'' data in our terminology, not 'warranty claim' data as defined in the NPRM.'' We believe that RMA's comment is valid, and we are defining ''warranty adjustment'' as follows:

Any payment or other restitution, such as, but not limited to, replacement, repair, credit, or cash refund, made by a tire manufacturer to a consumer, or to a dealer in reimbursement for payment or other restitution to a consumer, pursuant to a warranty program offered by the manufacturer.

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 commented on this. After reviewing these comments and assessing the value of warranty claims data to the early identification of possible safety defects, we discussed in some detail in the preamble to the NPRM how, in the past, warranty information has helped us to detect defects. We have often found warranty claims to be more valuable than customer complaints because the customer has identified a problem, a repair facility (often a manufacturer-franchised dealer) has performed a repair, and the manufacturer has paid for some of or all the repair. This information is valuable to NHTSA as an early warning tool in assessing whether a defect potentially exists. The principal limit on the value is that after the expiration of the warranty (often three years or 36,000 miles), this information is no longer generated. However, at times these programs are extended when there are problems with the product and at times manufacturers also pay for repairs under ''good will'' programs. We have found that ''good will'' actions provide valuable information in that manufacturers may choose to address a perceived problem by extending or liberalizing the terms of a warranty rather than by conducting a full recall, or by formally extending the warranty period. In order to aid in the early discovery of potential defects, the agency believes that the number of good will claims should be reported along with more ''traditional'' warranty claims.

The NPRM would have required manufacturers of 500 or more vehicles annually and all child restraint system and tire manufacturers to report aggregated warranty claims data from the United States on certain specified components or systems and fire (as described below). We proposed defining ''warranty claim'' as ''any claim presented to a manufacturer for payment pursuant to a warranty program, an extended warranty program, or good will.'' Thus, warranty claim reporting would comprise the number of repairs and/or replacements performed free of charge under warranties, as well as those under formal or informal extended warranties and good will. We proposed to define ''good will'' as ''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.

One suggestion made in the comments was that manufacturers should only report on warranty claims that were paid by the manufacturer. We agree with this suggestion. Manufacturers receive some incomplete warranty claims and do not pay them. They generally do not retain information on warranty claims that are presented to them and not paid. Thus, unpaid warranty claims would not be within a manufacturer's database and a manufacturer cannot report information that it does not have. Furthermore, the TREAD Act precludes NHTSA from requiring manufacturers to maintain or submit records respecting information not in their possession. *See* 49 U.S.C. 30166(m)(4)(B). Since some manufacturers do not keep records on unpaid warranty claims, NHTSA is constrained from requiring them to do so. To address this issue, the final rule defines ''warranty claim'' as ''any claim paid by a manufacturer, including provision of a credit, pursuant to a warranty program, an extended warranty program, or good will.''

The Alliance, Nissan, and Spartan commented on the inclusion of good will in warranty claims. The Alliance noted that NHTSA would receive a substantial number of good will claims in warranty claims reports because many Alliance members use their warranty systems to process them and had no objection to reporting good will claims that are processed along with warranty claims through the warranty system. Spartan generally opposed reporting certain good will claims because, in its view, good will claims are not good indicators of a problem with a motor vehicle; it contended that claims processed for good will or ''customer satisfaction'' would not provide NHTSA with an accurate indication of the condition that necessitated the repair. It observed that a high percentage of claims it received for these purposes are based on factors involving subjectivity or customer perception, and when investigated, often result in no problem being found.

The Alliance did not support reporting good will claims processed outside the normal warranty system, such as by direct check reimbursement, because the burden to manually account for and report these claims would outweigh the value of this data. The Alliance would exclude vehicle buy-backs under state lemon laws from good will claims. Spartan raised burden issues as well.

The Alliance also suggested a definition for good will, which was ''the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, any part of which is paid for by the manufacturer through its warranty administration system, when the repair or replacement is not covered under warranty.''

The Alliance's and Nissan's recommendation of limiting good will claims to those processed through a manufacturer's warranty administration system would exclude good will claims based on direct check reimbursement from a manufacturer to an owner not tracked within a manufacturer's warranty administration system and good will claims paid by manufacturers that provide payments and credits to dealers and others but do not record good will claims in their warranty systems. Good will claims not administered through a company's warranty system provide information as valuable as good will claims that are administered through that process. We desire to capture as many good will claims as possible to ensure we have a complete database from which to identify potential defects.

ODI's experience indicates that most manufacturers capture good will claims within their warranty systems. It appears to us, therefore, that the burden of capturing outside good will claims will be limited. Furthermore, all companies must have some means to track their good will claims for financial tracking purposes. Consequently, even if the good will claims are not in a warranty administration system, ordinarily they would be in another computerized system that could be accessed and reviewed without significant difficulty. If they were not entered and maintained in a manner that would provide minimal specificity, they would not be reported. We cannot estimate the burden of such review, since the Alliance did not provide any information about which companies possess good will payments outside their regular warranty system or the number or percentage of such ''outside'' claims.

Therefore, based upon the foregoing we believe that the definition of ''good will'' should include all good will claims regardless where they are processed within the company. We are adopting our proposed definition of ''good will,'' adding the further clarification that the repair or replacement is one that is not covered by a safety recall. Thus, ''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, or under a safety recall reported to NHTSA under part 573 of this chapter.

Several manufacturers suggested that NHTSA should clarify that it does not expect manufacturers to report lawsuits or claims for breach of warranty. We agree that the rule should be clarified to exclude lawsuits or claims for breach of warranty. As noted above, we are defining ''warranty claim'' as ''any claim paid by a manufacturer * * *.'' Thus, the definition does not include unpaid claims such as lawsuits or claims for breach of warranty. However, if a lawsuit or claim for breach of warranty is resolved with a monetary payment, it would become a ''warranty claim'' under our definition, and would have to be reported.

RVIA suggested that we establish a threshold number or percentage of claims relating to a particular critical system on a given model before any reporting is required. We discussed this concept in the ANPRM, but rejected it because we believe we may lose early information in the early warning stages and do not have the capability to set such thresholds.

RMA stated that not all good will claims will be captured in the categories that tire manufacturers must report on. Therefore, in order to capture all good will claims, RMA proposed the term ''customer satisfaction condition'' to capture those good will claims that do not fit within the categories prescribed by NHTSA. RMA suggested that:

> Tire conditions reported in the category ''customer satisfaction condition'' would include any tire not meeting customer expectations due to adverse operating conditions, cosmetic conditions, ride conditions, wear conditions, customer abuse, conditions not directly related to the tire (e.g. valve lead, bent rim), and the like.

RMA asserted that this category would cover all warranted and non-warranted (good will) adjustment conditions not included in the four component categories: tread, sidewall, bead, and other. Thus, RMA requested NHTSA to add this category to tire manufacturers' reporting obligation for warranty adjustment data. The RMA comments did not provide a clear basis for suggesting this additional reporting requirement, but it subsequently explained that this category would be used in instances where no specific tire failure was involved, such as for the three non-failed tires on a vehicle where the customer insisted on replacing all four tires when only one had failed.

We do not believe that data concerning tires with no failure condition or with cosmetic, ride, or wear concerns will be useful to the early detection of safety-related tire defects. Therefore, the ''customer satisfaction condition'' will not be adopted in the final rule. However, we emphasize that tire failure conditions attributed to ''adverse operating conditions'' or ''customer abuse'' should be counted in the appropriate category set forth in the rule. For example, to the extent that tire tread failures are attributed to road hazards or under-inflation in a manufacturer's warranty adjustment system, the incidents should still be counted under the tire ''tread'' component code.

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 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. In the NPRM, we proposed to require submission of the number of field reports, and the submission of certain categories of such 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 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. 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. 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 agreed with this.

In the NPRM, we concluded that the Alliance's suggested restriction of the definition to ''technical reports'' that are prepared by ''technical'' employees was not feasible. It would require a definition of ''technical'' and ''technical report'' and difficult, if not impossible, 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.

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, however, felt that reporting 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 primary bases upon which manufacturers become aware of potential defects in their products. We therefore proposed to require reporting of the cumulative number of field reports prepared both by manufacturers' employees or representatives and by dealers, including their employees, involving specified systems and components.

We also proposed 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. Most commenters did not dispute this. The few that did (Nissan and TMA) likened fleet reports to customer complaints. They did not demonstrate that fleet vehicles are not subject to extensive use. Therefore we are adopting it as proposed.

Other definitional issues raised by commenters were whether field reports should be limited to written communication and to ''non-privileged'' documents. Under the NPRM, 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 recognized 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 believed 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.

We agreed that reports relating to sales, marketing, and dealer-manufacturer relations were not within the definition of field report.

Finally, in addition to proposing that manufacturers report the number of field reports, we proposed that manufacturers would have to submit copies of field reports prepared by their employees and representatives and by fleets. However, manufacturers would not have to submit copies of field reports prepared by dealers or dealer employees.

On the basis of these considerations, we proposed 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.

The Alliance, NADA, RMA, MIC, Ford, GM, Harley-Davidson, and Utilimaster provided comments on these issues.

The Alliance argued that the definition should be limited to reports about incidents that occur ''in the field,'' which, in its view, is generally understood ''to mean incidents involving vehicles in use by consumers and the public.'' Absent this clarification, the proposed definition could be viewed as requiring reporting of incidents involving pre-production prototypes, or results of pre-production consumer evaluation clinics. Harley-Davidson had a similar comment.

The Alliance also commented that the definition should state that subsequent internal correspondence about the field incident is not reportable as another ''field report.'' NHTSA should also state, according to the Alliance, that ''field report'' does not include a contact from a dealer seeking technical assistance from the manufacturer in conducting a repair. For these reasons, the Alliance suggested that ''field report'' be defined as:

> (a) A non-privileged technical report prepared by a manufacturer's technical staff involving (b) a single incident in the field or several similar incidents in the field, (c) a covered vehicle system, and (d) a vehicle (or vehicles) that has been sold to a purchaser for purposes other than resale.

We agree with the comment by the Alliance and Harley-Davidson that it is not our intent to include reports involving prototype vehicles and equipment within the ambit of field reports, and are adding the phrase ''produced for sale,'' which we find clearer than ''in the field.'' As for the Alliance's other recommendations, while ''internal correspondence'' might not fit within the definition of ''field report,'' there can be, and often will be, multiple field reports about a particular incident. The information contained in such subsequent reports can be very valuable in ascertaining whether a possible defect exists. As for contact from a dealer seeking technical assistance in a repair, reports on diagnostics would be included within the definition, but a document reflecting the manufacturer's assistance after the diagnosis when the dealer's question is how to perform a repair would not.

MIC suggested that NHTSA define ''field reports'' ''to include communications received by a manufacturer from the manufacturer's technical staff, a dealer, and authorized service center, or others, regarding an alleged problem in or dissatisfaction with a product in use.'' This is not as clear or as comprehensive as the NPRM

proposed definition, which covered 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. Also, the MIC formulation does not include the phrase ''regardless of whether verified or assessed to be lacking in merit.'' It is important that the scope of the definition be set forth inclusively and that a manufacturer not be allowed to avoid reporting by denying an underlying assertion. In the NPRM, we noted that we were reluctant to limit the definition to include only ''technical'' or ''technical reports'' because it would require us to define those terms and require an assessment whether the author was a technical employee and whether the content was a technical report, which could result in delays, under-reporting, and unnecessary burdens. *See* 66 FR 66205. With regard to the MIC comment, the term ''technical staff'' would be equally problematic, as it is not defined. In any case, there is no need to include the term, since the MIC comment would include reports from ''others.''

Other industry commenters asserted generally that the proposed definition of ''field report'' was overbroad and would include irrelevant and highly sensitive information of no value to early warning. The commenters expressed concern over the scope of information that would be considered a ''field report'' under the proposed definition. The comments suggested a belief that field reports would include dealer issues, personnel information, commercially sensitive information, proprietary information, privileged and non-privileged litigation materials and work product. For instance, NADA emphasized that the definition should not be construed to cover such dealer-to-manufacturer communications such as technician assistance, electronic vehicle reprogramming, service or parts sales/marketing, customer satisfaction reports, etc. RMA added that the field reports received by the tire industry are more like consumer complaints and contended that the agency has already recognized that consumer complaints are unreliable in judging or predicting tire performance; the comment asserted that the reporting of field reports would be overly burdensome to members of the tire industry, and of little or no benefit to the agency.

The definition of field report that we proposed was intended to capture the basic concept of field reports utilized by ODI for many years. In the course of defects investigations, ODI has obtained information on field reports from manufacturers on a routine and standard basis, pursuant to numerous information requests. These industry comments misconstrue what was covered by the proposal. For example, ''field report'' was not intended to (and, in our view, did not) cover every dealer-to-manufacturer communication. ''Field report'' did not cover routine parts requisitions, marketing, dealer operation and relationship issues, company personnel matters or consumer complaints (which are addressed elsewhere in the rule), and would not include requests for previously-distributed technical support documents, such as instructions on installations of specified parts. ''Field report'' also would not include requests for guidance on how to efficiently perform routine maintenance on difficult-to-access components, or simple requests for towing (without more). As provided by the proposed rule, we would require reporting on the numbers of field reports involving failure, malfunction, lack of durability, or other performance problems for the categories set forth. The comments have not demonstrated that this is inappropriate. With regard to the comment reflecting the belief that field reports would include dealer and personnel issues, we note that dealer-manufacturer issues that do not involve defined problems with vehicles are outside the definition of field report. We have included reports prepared by manufacturers' representatives because manufacturers' representatives in the field often are not employees of the manufacturers in a strict legal sense.

The Alliance argued that reports generated by employees and representatives of a manufacturer that have performed product evaluations or operated ''company-owned''' vehicles for personal use should not be considered as field reports. However, such reports often describe a problem or malfunction and can provide valuable information regarding possible defects. In fact, many manufacturers use them for that very purpose. Therefore, we have decided that if such reports relate to vehicles that were produced for sale, they are encompassed within the definition of field report.

Some manufacturers expressed concern that the production of field reports would require a costly and burdensome review of litigation files and compromise the work product exclusion. Ford and GM asserted that under the proposed definition of field reports, they would be required to produce hard copies of draft and final documents in their litigation files, which would intrude upon the work product exclusion. Furthermore, Ford argued that even if it were only required to report numbers, rather than produce hard copies of field reports in its litigation files, the reporting of these numbers would hamper the ability of car manufacturers to evaluate product liability cases and prepare for trial, since it would reveal case strategy and trial preparation information that would not be disclosed in the litigation itself. We disagree with Ford's assertion. Ford's assertion overstates the NPRM's coverage of litigation documents. Documents created for litigation, such as expert reports, are often not created by a manufacturer's employee or representative. Nevertheless, although we do not believe that the proposed definition would cause the range of problems asserted by Ford and GM, we are concerned about inhibiting the manufacturers' ability to consult with outside counsel. Therefore, we are specifying in the final rule that a field report ''does not include a document contained in a litigation file that was created after the date of the filing of a civil complaint and relates to the vehicle, component, or system at issue in the litigation.''

Accordingly, the final rule defines ''field report'' as

> 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 for sale by that manufacturer, regardless of whether verified or assessed to be lacking in merit, but does not include a document contained in a litigation file that was created after the date of the filing of a civil complaint that relates to the vehicle, component or system at issue in the litigation.

2. Reporting and Submission of Field Reports

We proposed that the number of field reports involving specified components and systems from all sources be reported to us, and that NHTSA be provided with copies of all field reports from sources other than dealers.

With respect to numbers, we proposed that manufacturers of 500 or more motor vehicles and all manufacturers of child restraint systems and tires report the number of field reports originating in the United States regarding the same components and systems as they would be required to report for property damage claims,

consumer complaints, and warranty claims, as specified in the regulation. As with these categories of information, reporting would be done separately for each model and model year, for the ten previous model years. 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.

The proposal to submit copies of some field reports occasioned several comments. Under the NPRM, we proposed to require manufacturers to provide the number of field reports covering only certain vehicle systems or components, and fire. On the other hand, manufacturers would have to provide copies of all field reports that are generated by employees or representatives of the manufacturer or by representatives of fleets of the manufacturers' vehicles (but not from their dealers).

The Alliance objected to the breadth of the proposed document submittal, asserting that this would result in over 45,000 field reports provided to NHTSA from its members alone. The Alliance asked that any requirement that field reports be submitted be restricted to those covering the components and systems for which numbers reporting will be required. We are accepting this suggestion, and are adding language to paragraph (d) of Sections 579.21–579.25 to address this point.

The NPRM proposed to require manufacturers to submit copies of field reports that are generated by employees or representatives of the manufacturer or by representatives of fleets of the manufacturer's vehicles. The NPRM would not require copies of reports that are prepared by dealers or their employees. This reflects an effort to focus on what are now, in general, the more technically rich documents (i.e., the manufacturer—as opposed to dealer—generated documents) and to reduce burdens. Documents in which a manufacturer's representative or employee raises or analyzes a potential problem have often been valuable to ODI in identifying a defect. To clarify matters, the final rule adds language to paragraph (d) of Sections 579.21–579.25 to clarify that manufacturers are required to submit documents assessing possible problems and are not required to submit documents regarding non-safety related issues such as marketing, personnel information, dealer information, and issues such as dealer technician and roadside assistance calls. Thus, the only field reports that are to be submitted are those that contain ''an assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment that is originated by an employee or representative of the manufacturer * * *.''

The Alliance also objected to our proposal to require redaction of field reports. We proposed to require manufacturers to provide two copies of each field report covered by the submission requirements: one complete copy and one from which all personal information about individuals has been redacted. After reviewing the comments, we have decided not to adopt such a requirement. To the extent that redaction is needed, it will be performed by the agency.

Comments raised concerns about commercially sensitive and proprietary information. Utilimaster complained that competitors might use the information submitted to NHTSA against one another to gain a competitive edge. However, manufacturers can request confidentiality for information submitted to NHTSA pursuant to our regulation entitled *Confidential Business Information,* 49 CFR Part 512. Competitive harm is a basis for granting a request for confidentiality.

RMA argued that the field reports received by the tire industry are more like consumer complaints and contended that the agency has already recognized that consumer complaints are unreliable in judging or predicting tire performance. Its comment also asserted that the reporting of field reports would be overly burdensome to members of the tire industry, claiming that ''there is no system available to ''search out'' such a wide variety of documents, let alone place them in appropriate categories (tread, bead, sidewall, other),'' and concluding that ''assuming that a practical and reliable system could be designed, it would be very expensive to implement.'' RMA asked that tire manufacturers be excluded from the requirement to report numbers of field reports.

We disagree with RMA's comment that the agency has deemed consumer complaints unreliable, and that field reports would be of little or no benefit to the agency, as we discussed earlier in this document. However, we have reconsidered our tentative conclusion, as expressed in the NPRM, that tire manufacturers should be required to report numbers of field reports to NHTSA (the NPRM had already proposed to exclude tire manufacturers from providing copies of field reports). On the basis that tire industry field reports are more like consumer complaints, it would appear that the information that might be gained from such reports would be of limited value in detecting safety problems in tires. If a safety problem is developing in a line of tires, we believe that the problem is more likely to be detected through an increase in warranty adjustments than through field reports, which are better suited to detecting emerging problems in motor vehicles. Accordingly, the final rule does not require tire manufacturers to submit either numbers or copies of field reports.

In sum, we are convinced of the utility of field reports as indicators of potential safety defects, and that the definition, as modified and clarified, is properly scoped. Therefore, we are revising proposed paragraph (d) in each of Sections 579.21 and 579.22 to read as follows:

> * * * a copy of each field report (other than a dealer report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing an assessment of an alleged failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

These sections relate to field reports for passenger cars and medium-heavy vehicles including buses. Paragraph (d) of Sections 579.23 and 579.24 relating to field reports for motorcycles and trailers reads identically except that rollovers are not included. Paragraph (d) of Section 579.25 relating to field reports for child restraint systems reads identically except that neither fires nor rollover are included.

M. Customer Satisfaction Campaigns, Consumer Advisories, Recalls, or Other Activities Involving the Repair or Replacement of Motor Vehicles or Motor Vehicle Equipment

This aspect of the early warning proposed rule related to documentation that all manufacturers of motor vehicles and motor vehicle equipment would have to submit under proposed Section 579.5(b).

This requirement is based upon Section 30166(m)(3)(A)(ii), which 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.''

In the NPRM, we proposed 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) advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

We included communications related to operation and maintenance because they may relate to a potential defect. For example, a warning sent to owners 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'' potentially was indicated.

Nevertheless, because of these similarities, we proposed to implement this aspect of early warning reporting by including it in the same section as current Section 573.8, which is being moved to a new Section 579.5. This new Section 579.5 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. We also proposed 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 will only have to be submitted once.

MEMA, SEMA, the Alliance, AIAM, NADA, and Utilimaster commented on the proposed definition. All asserted that the definition is too broad.

The Alliance stated that the information that NHTSA obtains under the existing Sections 573.5(c)(9) and 573.8 should be sufficient and would be '' * * * virtually all of the information proposed to be required by the proposed Part 579.5.'' NADA is also concerned that the definition is overly broad, noting that ''the purpose of Section 30166(m)(3)(A)(ii) of the TREAD Act was to require manufacturers to report on service or repair 'campaign' activities beyond those falling within Section 30166(f), not to require every day-to-day manufacturer-dealer service/repair/ and parts communication.'' NADA suggested that the definition be restricted to ''campaigns'' and that ''non-'Campaign' communications involving business information (sales promotions, financials, etc.), normal service and repair information, tools and equipment information, etc. should not be covered.'' NADA would also limit the information to ''safety-related issues,'' commenting that ''Clearly, 'campaign' communications involving radio tuning features or leather seating color fade should not have to be reported.''

We acknowledged the breadth of the definition in both the ANPRM and NPRM (*see* p. 66206), saying that '' * * * this new section is broader than 49 CFR 573.8 (2001) (which implements Section 30166(f) * * * .'' However, we also stated that ''the proposed definition would not include routine marketing documents or documents relating to surveys of owner satisfaction.'' *See* p. 66207.

The first part of the definition, covering repair or replacement of a vehicle or equipment was derived from 49 U.S.C. 30166(m)(3)(A)(ii).

The second part of the definition, ''the manner in which a vehicle or equipment is to be maintained or operated,'' could, as acknowledged in the preamble, cover a number of issues that are not necessarily safety-related. The Alliance, AIAM, Utilimaster, SEMA, and MEMA commented that this might require manufacturers to submit communications on a wide variety of topics that have no safety-related relationship. Utilimaster asserted that instructions to the owners either at delivery of the vehicle such as in an owner's manual or in a follow-up communication, should be omitted. It believes that the agency would become ''* * * an instructional manual repository requiring storage facilities of heroic proportions * * *.'' We agree with a concern expressed in the comment. We do not view the routine provision of instructional documents with new products as a ''communication'' of the kind that would assist in the identification of defects relating to motor vehicle safety. Ordinarily, manufacturers do not knowingly produce defective products and instruct owners in how to avoid triggering the defect. What may be important to safety under the rule are post-sale advisories sent to owners that may run counter to the instructions initially given, such as a change in recommended tire pressures, or a shortened maintenance schedule. MEMA recommended that ''the manner in which a vehicle or equipment is to be maintained and operated'' be revised to address only post-sale conditions and have the following inserted: ''(excluding materials such as promotional information, operating instructions, or

owner's manuals which accompany the vehicle or equipment at the time of first sale).'' We agree with the thrust of this recommendation.

SEMA and MEMA are concerned that equipment manufacturers would have to report many communications that would be of virtually no value. To address this, we are modifying the second part of the definition to apply to only those equipment manufacturers who produce child restraint systems. Instead of the phrase ''the manner in which a vehicle or equipment is to be operated,'' that we proposed, we are adopting the phrase ''the manner in which a vehicle or child restraint is to be operated.''

No one commented specifically about the third part of the definition, the phrase ''advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment,'' and we are retaining it in the final definition.

For the reasons stated above, the final rule contains the following definition of ''customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment:''

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 repair, replacement, or modification of a vehicle, component of a vehicle, item of equipment, or a component thereof, the manner in which a vehicle or child restraint system is to be maintained or operated (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale), or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

N. Components and Systems Covered by Reports.

As discussed in Section III.B above, we proposed five discrete vehicle categories, and are adopting four of them in the final rule, having consolidated buses with medium-heavy vehicles. We 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.

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 vehicle-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 database, the relevant portions of 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 proposed 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, 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.

For medium-heavy vehicles and for buses/school buses, we proposed 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, 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. Because manufacturers of medium-heavy vehicles and buses would be required to report problems with the same identified components, we have decided to consolidate them into a single category.

In the final rule, we have decided to reduce the burden upon light vehicle manufacturers by not requiring separate reports involving integrated child seat systems (which are now included in the definition of seats), or by requiring reporting on trailer hitches and climate control systems. We are also not requiring medium-heavy vehicle and bus manufacturers to report on climate control systems. As discussed below, however, both types of manufacturers will have to separately report incidents, etc., involving rollover.

For trailers, we proposed 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. In the final rule, we are retaining all these proposed systems and components except for climate control systems.

Finally, for motorcycles, we proposed to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, engine and engine cooling system, fuel system, power train, 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. In the final rule, we are retaining all

these proposed systems and components.

With respect to reporting of incidents involving deaths and injuries, if the component or system identified in the claim or notice is other than a component or system for which reporting is specified, the manufacturer will enter the code ''98.'' If the component or system is not specified in the claim or notice (i.e., is unknown to the manufacturer), the manufacturer shall use the code ''99.'' (Other code numbers are discussed later.)

For incidents involving deaths and/or injuries, we have added a column with the heading of ''ID.'' Manufacturers must identify each separate incident with a unique, consecutive number. This will allow both ODI and the manufacturer to readily identify and refer to a specific incident. This will be particularly useful in those rare cases in which a manufacturer needs to update the incident report (as discussed below).

We proposed definitions for many of the systems and components for which reporting would be required. While we believed that these definitions were straight forward and self-explanatory, we requested comments on their accuracy and completeness. In some instances, we did not propose definitions because the need for a definition had not been clear, based on the ANPRM. However, in light of the comments on the NPRM requesting greater specificity, we are setting forth definitions for each category for which reporting will be required. In some cases, these are based on definitions recommended by the Alliance in its comments.

01. We did not propose a definition for ''Steering System'' in the NPRM. For the final rule, we have defined ''Steering System'' to mean

> all steering control system components, including the steering system mechanism and its associated hardware, the steering wheel, steering column, steering shaft, linkages, joints (including tie-rod ends), steering dampeners, and power steering assist systems. This term includes a steering control system as defined by FMVSS No. 203 and any subsystem or component of a steering control system, including those components defined in FMVSS No. 204. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

This definition generally follows the language suggested by the Alliance. It should be noted that the Alliance recommended joining steering, suspension, and wheels together in a single category, believing that the systems overlap. While we recognize that the three areas are related, we believe they are more properly subdivided into discrete categories that can be analyzed separately. Otherwise, unusual problems in one area might be masked by normal problem experience in the other areas.

02. ''Suspension System'' means

> all components and hardware associated with a vehicle suspension system, including the associated control arms, steering knuckles, spindles, joints, bushings, ball joints, springs, shock absorbers, stabilizer (anti sway) bars, and bearings that are designed to minimize the impact on the vehicle chassis of shocks from road surface irregularities that may be transmitted through the wheels, and to provide stability when the vehicle is being operated through a range of speed, load, and dynamic conditions. The term also includes all electronic control systems and mechanisms for active suspension control, as well as all associated components such as switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.) and mounting elements (such as brackets, fasteners, etc.).

This is essentially the definition that we proposed. Our definition as adopted incorporates the Alliance recommendation, except that, as noted above, we have divided steering, suspension, and wheels into three separate categories. We have also expanded this definition slightly to include electronic control systems and mechanisms for active suspension control, as well as all associated components such as switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

03, 04. We did not propose a definition of ''Service Brake System'' in the NPRM. After reviewing the Alliance's suggested definition, we have decided that this term will mean

> all components of the service braking system of a motor vehicle intended for the transfer of braking application force from the operator to the wheels of a vehicle, including the foundation braking system, such as the brake pedal, master cylinder, fluid lines and hoses, braking assist components, brake calipers, wheel cylinders, brake discs, brake drums, brake pads, brake shoes, and other related equipment installed in a motor vehicle in order to comply with FMVSS Nos. 105, 121, 122, or 135. This term also includes systems and devices for automatic control of the brake system such as antilock braking, traction control, stability control, and enhanced braking. The term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

This definition is similar to that suggested by the Alliance, except that the parking brake has been placed in a separate category.

As discussed above, manufacturers of medium-heavy vehicles, buses, and trailers must subdivide their reports on service brake system issues into ''hydraulic'' and ''air'' brake systems. Code 03 should be used to refer to hydraulic service brakes on these vehicles and all service brake reports on light vehicles and motorcycles. Code 04 should be used to refer to air service brake systems on medium-heavy vehicles, buses, and trailers utilizing air service brakes or air-over-hydraulic brake systems. If a medium-heavy vehicle, bus, or trailer has a type of service brake system not readily categorized as an ''air'' or ''hydraulic'' brake system (e.g., electric brakes), the manufacturer should indicate hydraulic service brakes on its report (Code 03).

05. We are adopting the definition we proposed for ''Parking Brake,'' with certain revisions recommended by the Alliance. ''Parking Brake'' means

> a mechanism installed in a motor vehicle which is designed to prevent the movement of a stationary motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

This term does not include automatic transmission interlock components or pawls. Those components are part of the power train, which is addressed separately. Contrary to the Alliance's suggestion, we believe that the function and performance of the parking brake is sufficiently distinct to warrant separate reporting, even though certain elements of the service brake system may be shared by the parking brake. Where there is doubt, the manufacturer should attribute the incident to the vehicle's service brake system.

06. We did not propose a definition for ''Engine and Engine Cooling.'' The Alliance contended that the category is unneeded because incidents that would be reported under it would be reported under other categories. The Alliance asserted, however, that if this were to be maintained as a separate category, the definition needs to clarify where the fuel system ends and the engine begins. To do so, we are defining ''Engine and Engine Cooling'' to mean

> the component (e.g., motor) providing motive power to a vehicle, and include the exhaust system (including the exhaust emission system), the engine control unit, engine lubrication system, and the underhood cooling system for that engine. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

07, 08, 09. We did not propose a definition for ''Fuel System'' in the NPRM. However, we have developed a definition based on the Alliance's recommendation. ''Fuel System'' means

all components used to receive and store fuel, and to transfer fuel between the vehicle's fuel storage, engine, or fuel emission systems. This term includes, but is not limited to, the fuel tank and filler cap, neck, and pipe, along with associated piping, hoses, and clamps, the fuel pump, fuel lines, connectors from the fuel tank to the engine, the fuel injection/carburetion system (including the fuel injector rails and injectors), and the fuel vapor recovery system(s), canister(s), and vent lines. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

For medium-heavy vehicles and buses, manufacturers must report separately for vehicles powered by gasoline (07), diesel (08), and other (09) types of fuel. For light vehicles and motorcycles, all fuel system reports shall be coded as 07.

10. We are defining ''Power Train'' to mean

the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including the transmission (manual and automatic), gear selection devices and associated linkages, clutch, constant velocity joints, transfer case, driveline, differential(s), and all driven axle assemblies. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

This was essentially the definition we proposed. The Alliance agreed with it, but suggested adding the clarifying exclusion that it ''does not include any component of the suspension or steering system.'' We believe that this is unnecessary, as neither the suspension nor the steering system ''transfer motive power from the engine to the wheels.'' For consistency with other definitions, as discussed above, we are adding a reference to ''all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).''

11. We did not propose a definition of ''Electrical System.'' We are adopting the definition suggested by the Alliance, except that we are adding a specific reference to the ignition system, and, for consistency, a reference to ''all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).'' Therefore, ''Electrical System'' means

any electrical or electronic component of a motor vehicle that is not included in one of the other enumerated reporting categories, and specifically includes the battery, battery cables, alternator, fuses, and main body wiring harnesses of the motor vehicle and the ignition system, including the ignition switch and starter motor. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

12. We did not propose a definition of ''Exterior Lighting'' in the NPRM. For clarity, we are defining ''Exterior Lighting'' to mean

all the exterior lamps (including any interior-mounted center highmounted stop lamp if mounted in the interior of a vehicle), lenses, reflective systems, and associated components of a motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

The Alliance recommended not including a category regarding lighting as a separate component/system and was concerned about how, if included, ''lighting'' would be distinguished from ''Electrical System.'' This definition addresses the questions posed by the Alliance. Compare with Item 11 above.

13. We proposed a definition of ''Visual Systems'' which we are calling ''Visibility'' in the final rule. Visibility 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. This term includes those vehicular systems and components that can affect the ability of the driver to clearly see the roadway and surrounding area, such as the systems and components identified in FMVSS No. 103, 104, and 111. This term also includes the defogger/defroster system, the heater core, blower fan, windshield wiper systems, mirrors, windows and glazing material, heads-up display (HUD) systems, and exterior view-based television systems, but does not include exterior lighting systems which are defined under ''Lighting.'' The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

The Alliance suggested that it was not necessary to establish this as a separate code. However, the components and systems covered under this definition, encompassing wipers, washers, and defrosters as well as the windows, have often been the subject of defect investigations and recalls, and problems in this area should be reported.

14. We did not propose a definition for ''Air Bags,'' but have provided one here for clarity. The definition incorporates the definition suggested by the Alliance, but is somewhat broader. We did not intend to limit the specific definition to relate only to ''Air Bags,'' but also to address all automatic safety restraint systems. Therefore, for purposes of this rule, ''Air Bags'' means

an air bag or other automatic occupant restraint device (other than a ''seat belt'' as defined in this subpart) installed in a motor vehicle that restrains an occupant in the event of a vehicle crash without requiring any action on the part of the occupant to obtain the benefit of the restraint. This term includes inflatable restraints (front and side air bags), knee bolsters, and any other automatic restraining device that may be developed that does not include a restraining belt or harness. This term also includes all air bag-related components, such as the inflator assembly, air bag module, control module, crash sensors, and all hardware and software associated with the air bag. This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

15. We did not propose a definition for ''Seat Belts,'' but one is now provided for clarity. We have incorporated the definition suggested by the Alliance. ''Seat Belts'' means

any belt system, other than an air bag, that may or may not require the occupant to latch, fasten, or secure the components of the seat belt/webbing based restraint system to ready its use for protection of the occupant in the event of a vehicle crash. This term includes the webbing, buckle, anchorage, retractor, belt pretensioner devices, load limiters, and all components, hardware and software associated with a non-automatic seat belt system addressed by FMVSS Nos. 209 or 210. This term also includes integrated child restraint systems in vehicles, and includes any device (and all components of that device) installed in a motor vehicle in accordance with FMVSS No. 213, which is designed for use as a safety restraint device for a child too small to use a vehicle's seat belts. This term includes all vehicle components installed in accordance with FMVSS No. 225. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

16. We are adopting a definition of ''Structure,'' as

any part of a motor vehicle that serves to maintain the shape and size of the vehicle, including the frame, the floorpan, the body, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof. The term also includes all associated mounting elements (such as brackets, fasteners, etc.)

The Alliance did not believe a separate category for ''structure'' was necessary. However, we believe that it is important to obtain information about problems with a vehicle's structure, since many other systems and components attach to the structure.

17. We are adopting a definition of ''Latch'' to mean

a latching, locking, or linking system of a motor vehicle and all its components fitted to a vehicle's exterior doors, rear hatch, liftgate, tailgate, trunk, or hood. This term 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, and includes all components covered in FMVSS No. 206. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

As a modification of the definition we proposed, we have added ''locking'' and ''linking'' to ''latching,'' since latching systems, as a general rule, include linking and locking components. As modified, this definition incorporates the recommendations made by the Alliance.

18. We are adopting the definition we proposed for ''Vehicle Speed Control,'' which 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 (such as cruise control) and speed limiting devices. This term includes, but is not limited to, the items addressed by FMVSS No. 124, and includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

19. We did not propose a definition of tire, but are adopting one in the final rule. ''Tire'' means

an item of motor vehicle equipment intended to interface between the road and a motor vehicle. The term includes all the tires of the vehicle, including the spare tire. This term also includes tire valves, tubes, and tire pressure monitoring and regulating systems, as well as all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

20. We did not propose a definition of ''Wheel'' in the NPRM. For clarity, we are defining the term ''Wheel'' to mean

the assembly or component of a motor vehicle to which a tire is mounted. The term includes any item of motor vehicle equipment used to attach the wheel to the vehicle, including inner cap nuts and the wheel studs, bolts, and nuts.

The Alliance recommended incorporating the ''Wheel'' component with ''Steering'' and ''Suspension,'' but, as discussed above, we believe that it is more appropriate to separate these categories.

21. We did not propose a definition of ''Trailer Hitch.'' By ''Trailer Hitch'' we mean

all coupling systems, devices, and components thereof, designed to join or connect any two motor vehicles. This system also includes any associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

We are requiring reports on trailer hitches only for medium-heavy vehicles/buses and trailers, even though some light vehicles contain such hitches. Manufacturers of light vehicles and motorcycles are not required to report on trailer hitches because most of the hitches for these vehicles are installed by dealers or installed by the owner as an aftermarket add-on. As such, they are equipment items. No commenter addressed this component.

22. We did not propose to define ''Seats.'' By ''Seats,'' we mean

all components of a motor vehicle that are subject to FMVSS Nos. 202, 207, and S9 of 209, including all electrical and electronic components within the seat that are related to seat positioning, heating, and cooling. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

This definition is based on the definition provided by the Alliance.

23. The Alliance did not agree with our proposed definition of ''fire,'' and suggested that ''fire'' be defined as ''a rapid, persistent chemical change that releases heat and light and is accompanied by flame, especially the exothermic oxidation of a combustible substance.'' We had proposed that ''fire'' be defined as ''combustion of any material in a vehicle as evidenced by, but not limited to, flame, smoke, sparks, or smoldering.'' The Alliance commented that ''sparks'' are the normal byproduct of any rotating electrical component and which occur in normal vehicle operation, such as the working of a starter motor. Moreover, the definition would include complaints of ''smoke,'' and ''smoldering,'' which the Alliance does not believe need to be tracked for early warning purposes. We are retaining these words. Smoke commonly results from burning. We construe ''smoldering'' as burning with little smoke and no flames. We construe ''sparks'' as incandescent particles thrown off from a burning substance. *See The American Heritage Dictionary.* Each of these conditions is indicative of a fire or a potential fire. The type of sparking for which the Alliance provided examples generally occurs as a part of normal vehicle operation and is generally not visible to the driver or passengers. We deem it highly unlikely that this type of spark will be reported to the manufacturer. Therefore, in the final rule, we are defining fire much as we proposed it, except that we are adding ''or burning'' after ''combustion.'' ''Fire'' means ''combustion or burning of any material in a vehicle as evidence by, but not limited to, flame, smoke, sparks, or smoldering.''

24. We have decided to add an additional reporting category, ''rollover.'' The failure of various components can lead to a rollover, so none of the other specified systems and components is likely to capture all claims, notices, complaints, etc. about rollover. (Moreover, some claims of rollover assert that the overall design of the vehicle in question is defective, without referring to any particular system or component.) Also, it is noteworthy that one major impetus for the early warning provisions in the TREAD Act was the lack of information available to NHTSA about incidents, including fatal crashes, involving rollover after a tire tread separation. To avoid corrupting the data, we are limiting this category to single-vehicle crashes. Moreover, it will apply only to light vehicle and medium-heavy vehicles including buses.

Although NHTSA has not previously defined ''rollover,'' FMVSS No. 301, *Fuel System Integrity,* includes a static rollover test (S6.4) in which a vehicle is rotated on its longitudinal axis to successive increments of 90 degrees. This forms the basis for our defining ''rollover'' for this rule as ''a single-vehicle crash in which a vehicle rotates on its longitudinal axis to at least 90 degrees, regardless of whether it comes to rest on its wheels.'' This will encompass situations in which a vehicle rolls over on its side as well as those in which it rolls over on its roof.

With regard to child restraint systems, ODI conducted a review 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 proposed to require manufacturers to separately report the number of problems/incidents relating to the buckle and restraint harness, handle, seat shell, and base. We proposed definitions for these components, except for the handle.

JPMA commented that the term ''pads'' (restraint pads) and ''padding'' were used in two of our proposed definitions, and asked that these terms be stricken since these components are rarely associated with a safety risk and are often the subject of complaints unrelated to safety. We agree with JPMA, and the final definitions do not include these terms. Our own review of the term ''shield'' shows that it appears in the definitions of both ''buckle and restraint harness'' and ''seat shell.'' As only one is necessary, we are including ''shield'' in the definition of ''buckle and restraint harness'' and specifically excluding it from ''seat shell.''

With respect to tires, we proposed to follow the suggestions of RMA in its comments, and by and large the final rule does so. Fatality and injury reporting will include the information required of manufacturers of other products, and will also include the damage claimed, the vehicle manufacturer, the vehicle make, model and model year, the tire size, the tire line, and the TIN.

We specifically requested RMA to provide its comments on appropriate definitions of the terms ''bead,'' ''common green,'' ''tire line,'' ''sidewall,'' ''SKU,'' and ''serial code'', and it did so. We have adopted those suggestions.

''Bead'' is defined as

> all the materials in a tire below the sidewalls in the rim contact area, including bead rubber components, the 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.

The proposed definition of ''common green'' has been modified to read as follows:

> Tires that are produced to the same internal specifications but that have, or may have, different external characteristics and may be sold under different tire line names.

''Tire line'' is defined as ''the entire name used by a tire manufacturer to designate a tire product, including all prefixes and suffixes as they appear on the sidewall of the tire.''

The term ''sidewall'' includes ''The sidewall rubber components, the body ply and its coating rubber under the side areas, and the inner-liner rubber under the body ply in the side area.''

''SKU (Stock Keeping Unit)'' is defined as ''the alpha-numeric or numeric designation assigned by a manufacturer to a tire product.''

We also asked for a definition of ''serial code,'' a term RMA used on its draft warranty and property damage claim reporting forms. Upon further consideration, and in order to use a term familiar to both NHTSA and the industry, RMA will use the term ''tire type code'' on these forms. This corresponds to the third grouping of identification requirements as specified in 49 CFR 574.5(c), and, therefore, no further identification is needed in this rule.

Finally, we are adopting RMA's recommended definition for ''tread'' or ''crown.'' That term means:

> All materials in the tread area of the tire, including the rubber that makes up the tread, the subbase 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 same, including any rubber inserts, the body ply and its coating rubber under the tread area of the tire; and the inner-liner rubber under the tread.

For property damage claims and warranty adjustments, we proposed to require tire 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 will still have to be reported.

RMA proposed a format for submitting data concerning total tire production, warranty production, number of property damage claims and number of adjustments. This sample format is shown on the document filed in the docket, NHTSA 2001–8677–102, Attachment B–2. NHTSA accepts this suggestion from RMA for submitting production, property damage claims, and warranty adjustment data. However, we do not want tire manufacturers to submit adjustment rate and property damage rate data as shown on the RMA sample format. Therefore, the template that will be adopted for tire manufacturers to submit data will be congruent with the RMA suggestion, but will not include rate data.

RMA also suggested that we require tire manufacturers to provide a list of ''common green'' tires. This is needed so that we are aware of various tire lines, including house brands, that are of identical construction, so we can get a fuller picture as to the failure experiences of relevant tires. We have therefore added a new Section 579.26(d) to require submission of such a list with each quarterly report.

Consistent with the approach taken in connection with the Uniform Tire Quality Grading Standards (UTQGS), 49 CFR 575.104, we did not propose to require reporting of warranty adjustments, 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. RMA did not comment on this. After further consideration, we have decided that simply establishing a 15,0900 tire threshold would raise too many difficult issues that would require additional interpretation. We will accomplish the same objective, however, by simply referencing the ''Application'' provisions of the UTQGS, 49 CFR 575.104(c)(1), which contain an exception for, among other things, ''limited production tires'' as defined in Section 575.104(c)(2).

RMA also commented that the early warning proposed rule would cover tires for all motor vehicles, but that ''the obligation to submit early warning information for non-passenger and light truck tires presents a host of issues not addressed in the NPRM, requiring further information from the industry.'' In separate comments submitted to the docket (Comment NHTSA 01–8677–101), RMA addressed an early warning reporting system for these tires, ''which suggests that, at the very least, the implementation of the early warning reporting requirements for these tires be delayed for at least one year.'' As an example, RMA referred to ''medium radial truck tires,'' and commented that this category comprises new and retreaded tires (which may have a different manufacturer from the tire casing). Warranty periods for these tires vary according to contract terms, and the tires are professionally serviced. RMA would exclude these tires from all reporting except for incidents of death.

We concur with RMA's view that this segment of the tire industry requires further study, which may warrant regulation for early warning purposes in a manner that differs from that accorded tires for other motor vehicles. Accordingly, we are adopting the RMA recommendation to only require full reporting under Section 579.26(a) and (c) for passenger car tires, light truck tires, and motorcycle tires. However, reports about incidents involving deaths must be submitted for all tires.

O. Updating of Information

Several commenters addressed the issue of whether NHTSA will require updating of reports of incidents involving death or injury if there are changed circumstances or if the manufacturer was not aware of certain relevant information at the time the report was initially submitted to us. We are adopting Section 579.28(f) to address this issue. We recognize the burden associated with tracking the progress of claims and litigation to identify a broad range of newly

discovered information. However, some information that may not be known to the manufacturer at the time of the initial report is so vital that we need to receive it if it subsequently becomes available. If a manufacturer indicates in its initial report that no system or component has been identified in a claim or notice and later becomes aware that a specified system or component allegedly contributed to the incident, the manufacturer must submit a supplemental report regarding that incident in the report covering the reporting period in which the information was obtained.

In addition, if a vehicle manufacturer is not aware of the VIN, or a tire manufacturer is not aware of the TIN, at the time the incident is originally reported to us, the manufacturer must submit a supplemental report regarding that incident in the report covering the reporting period in which the VIN or TIN is identified. No other updating will be required. For example, if a manufacturer has reported an incident to us involving an injury and the injured person later dies, we will not require a supplemental report. This last scenario was specifically identified by several commenters as possibly creating a significant burden.

P. One-Time Reporting of Historical Information

In the NPRM, we expressed concern that, 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 safety defect trends unless we could compare it to similar information about earlier periods. To maximize the usefulness of the data from the onset of reporting, we want to ''seed'' our data base with historical data rather than merely letting it accumulate from the time of the initial report. Therefore, we proposed that, no later than the date that a manufacturer must submit its first reports under the final rule, which we 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, providing information on production and on the numbers of property damage claims, consumer complaints, warranty claims, and field reports, as applicable, 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, and for child restraint systems and tire 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 requested comment on whether the time frame for the proposal is appropriate, and whether we should exclude historical data for deaths and injuries. Many commenters objected to this proposal on the grounds that it would be excessively burdensome. A discussion of these comments and our estimate of the burdens of several alternative approaches is contained in the Final Regulatory Evaluation (FRE) for this rulemaking, which has been placed in the docket. We note, however, that some manufacturers erroneously believed that we had proposed to require submission of copies of the older field reports. We had not done so.

RMA objected to the proposal that tire manufacturers provide data, on a quarterly basis, for a period commencing January 1, 1998. It suggested yearly production information beginning with that date, and commented that ''for property damage claims and warranty adjustments, an accumulation of all claims and adjustments received in years 2000 through 2002 should be reported for each tire line and size for each year of production.'' In our view, yearly data are not sufficient, since the purpose of obtaining this historical data is to allow us to make comparisons with currently quarterly information submitted in the first several years of this program. And simply dividing the yearly totals by four is not adequate, since there are often seasonal differences, particularly for tires.

We have thoroughly considered the comments on this issue and, in order to minimize the burden upon manufacturers, have decided to significantly reduce the amount of historical information to be submitted under this provision. We will not require the submission of the numbers of historical consumer complaints (which the commenters deemed most burdensome) or property damage claims. In addition, in response to requests from several commenters, we have delayed the date for submission of this information so that it is due one month after the initial quarterly report (i.e., on September 30, 2003).

The final rule requires that a manufacturer shall file 12 separate reports, providing information on the number of warranty claims or adjustments, and the number of field reports that it received in each of the 12 calendar quarters from April 1, 2000 to March 31, 2003, for vehicles manufactured in model years 1994 through 2003 (including any vehicles designated as 2004 models), for child restraint systems manufactured on or after April 1, 1998, and for tires manufactured on or after April 1, 1998. The manufacturers generally did not object to providing warranty data, and we believe that field reports will provide the richest data. We emphasize again that copies of these older field reports need not be submitted.

V. When Information Must 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 and NPRM 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 discussed the options of reporting on bases of ''information-as-received,'' monthly, and quarterly, depending upon 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.

In the NPRM, we tentatively 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 appeared to be more appropriate. We noted that 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.'' However, the NPRM requested comments on whether we should require reporting six times per year.

In the NPRM, we proposed that virtually all the early warning information, including copies of required field reports, be submitted to us not later than the 30th day of the calendar month following the end of the reporting period. We believed that 30 days would be sufficient to compile this

information, but we requested comments on whether a shorter or longer period would be appropriate. We also proposed 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 currently required for submissions under Section 573.8.

Several commenters asked for more time before the reporting requirements would take effect. For example, the Alliance suggested that the first reporting quarter should be one year after the final rule (including any possible modifications adopted pursuant to petitions for reconsideration) is issued.

RMA commented that tire manufacturers ought to be permitted to report within 60 days after the last day of the quarterly reporting period rather than 30 days. RMA noted that production may come from numerous plant locations, property damage claims from specific files which may not be in one location, and warranty adjustments from totally different files. The manufacturer must then compile the data and load it into a program or programs that will compare the information and match the data to the appropriate tire line and size. According to RMA, ''this process will take many weeks.'' To require submission of data within 30 days ''will represent an unreasonable burden on the tire industry.'' RMA stated that in the third quarter of calendar year 2001, its tire manufacturer members ''collectively received almost 450,000 warranty adjustments and property damage claims, representing over 100,000 different stock keeping units (SKUs).'' Some other commenters asked for 45 days to submit the reports, while others believed that 30 days was sufficient (particularly if they did not have to submit historical data on the same date).

After reviewing these comments, we have decided to adopt the quarterly reporting that we proposed.

While we believe that most manufacturers will be able to have systems in place to accumulate and store the information required to be submitted under this rule within six months, in order to accommodate those manufacturers that may be less prepared, we have decided to defer the first reporting period to the second quarter of 2003.

We also believe that it is reasonable to require reports to be submitted not later than 30 days after the end of each calendar quarter. After all, the entire point of these rules is to obtain early warning information, and we want to minimize any unnecessary delays in our review of this information. However, so that both manufacturers and NHTSA may become accustomed to the collation, transmission, and storage of data, the first three reports (i.e., those for the final three calendar quarters of 2003) will be due two months after the end of the reporting period. Thus, the reports for the quarters that end June 30, September 30, and December 31, 2003, will be due, respectively, not later than August 31 and December 1, 2003 (November 30, 2003, being a Sunday), and February 29, 2004. Thereafter, reports will be due within 30 days of the end of the reporting period; the report for the first quarter of 2004 that ends on March 31 will be due not later than April 30, 2004. Copies of other documents that must be transmitted to NHTSA (relating to customer satisfaction campaigns, etc., as described in Section 579.5(b)), will be due within 5 working days after the end of each month beginning with April 2003.

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 only relate to preliminary investigative activities and need only be of such a nature that it may assist us in the identification of safety-related defects. Thus, we plan to request additional information from manufacturers if the information in the periodic reports suggests that there may be a possible problem. These inquiries would not be formal investigations, such as Preliminary Evaluations and Engineering Analyses now conducted by ODI.

C. One-Time Historical Report

We had proposed in the NPRM that this historical data would be due on the date that the first quarterly report was due, which we tentatively assumed would be April 30, 2003. However, to reduce the burden on manufacturers, we have decided to establish the due date for that submission as three months after the end of the first quarter covered by the rule, which will be September 30, 2003. This will allow manufacturers to spread their workload and to devote their full attention to preparing their reports for the first regular reporting period, which will be August 31, 2003.

VI. The Manner and Form in Which Information Will 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.''

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), 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.

RMA suggested that we simply state that information shall be formatted by a manufacturer in a format approved by NHTSA. However, RMA's suggestion might result in requests by a large number of manufacturers for approval of their own specific formats, taxing NHTSA's resources that will be devoted to the early warning program and to the development of ODI's new data management system.

NHTSA is adopting two alternative methods for manufacturers to submit their periodic reports, using specified templates that are consistent with Microsoft Excel spreadsheets. These templates will be available on the NHTSA website, *www.nhtsa.dot.gov.* The most efficient method, and the one we prefer that manufacturers use, is over the Internet directly to ODI's secure data repository. NHTSA will establish a link on its web site to a data repository suitable for containing these data. After obtaining a secure password from the agency, manufacturers would be able to use that link to ''push'' their report to the NHTSA repository. Upon receipt of the data, an acknowledgement will be returned to the submitter, noting the date and time of the submission. To protect unauthorized submissions and to protect the data, the repository will utilize a highly secure server. Manufacturers will be required to obtain

an identification number and a password by submitting a written request to ODI.

Alternatively, for data files smaller than the size limit of the DOT Internet e-mail server, currently five megabytes, manufacturers may submit their data as an attachment to an e-mail message, sent to *odi.ewr@nhtsa.dot.gov.* The e-mail system will provide a return receipt. There is, however, a risk that this method will not result in the data actually arriving at the appropriate office in NHTSA, since e-mail servers may be unreliable in handling large attachments, both within DOT and within the manufacturers' own systems. The preferred method, based on security considerations, ease of use, and reliability, is the web site link described above.

Any electronic image provided by a manufacturer must have no less than 200 and no more than 300 dpi (dots per inch) resolution.

In the NPRM, we had proposed to allow submission of information on CD/ROMs. However, we have been advised that the radiation used on mail to the DOT Headquarters building to protect against anthrax contamination can destroy information on CD/ROMs. Therefore, we cannot allow this method to be used.

For small manufacturers, which only need to submit minimal amounts of data, we are establishing an interactive form reachable through a link on our web site that may be filled out by manual data entry by the submitter. This method will require completing a form for each incident, with fields for each of the required data elements. A manufacturer ID and a secure password will be needed for these reports as well, to prevent the data from being corrupted.

Paper documents, computer printouts, or similar non-electronic submissions of this data will not be acceptable.

With respect to copies of communications submitted under Section 579.5 and copies of field reports submitted under paragraph (d) of various sections, we prefer receiving the documents in electronic form using any state-of-the-art, commercially available, non-proprietary graphic compression protocol, through the Internet link to the ODI data repository or via e-mail. However, to accommodate small businesses, we will also accept paper copies of those documents mailed in the same manner as is currently used under current Section 573.8.

Manufacturers will have to provide ODI with the name and contact information (phone number, address, e-mail address, etc.) of two information technology (IT) point-of-contact persons (a primary contact and a back-up contact), who will be responsible for resolving issues with data submissions as they come up from time to time.

The Alliance and RMA requested the opportunity to discuss details related to the submission of the early warning data, the reporting format, the means for submitting data, and other technical details to ensure smooth implementation of the reporting process. NHTSA supports this approach. NHTSA staff and its contractor's staff met with Alliance representatives on April 9, 2002, and with RMA representatives on May 17, 2002, to discuss IT issues associated with early warning reporting. Also, after receiving an invitation from Ford for NHTSA to visit its facility, representatives of NHTSA and its contractor traveled to Dearborn to discuss Ford's existing data retrieval and analysis system for early detection of potential safety defects.

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 data transmission methods and protocols. Interested persons, particularly the manufacturers' IT staff members, will be invited to discuss technical issues in an open forum to resolve any issues related to the submission of data. We also plan to conduct several trial runs with the cooperation of various manufacturers to assure that the process will run smoothly.

VII. 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.

We will comply with the statutory provision by explaining in this document, as we did in the NPRM, 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 current 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. In the NPRM, we commented that if we decided to change this approach, we would discuss any such changes in the final rule.

Referring to a report of the Inspector General of the Department of Transportation (Review of the Office of Defects Investigation, NHTSA, Report No. MH–2002–071, Jan. 3, 2002), RMA suggested that if NHTSA intends to establish procedures for determining whether to open a formal investigation or pursue other enforcement action based on its review of early warning reporting data, the agency should conduct a separate notice and comment rulemaking. We note that NHTSA already has a regulation covering its defect investigations (49 CFR Part 554, Standards Enforcement and Defects Investigation) and does not foresee any change in its investigatory procedures that would require an amendment.

We are 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, and facilitate the provision of appropriate information to the public. We expect to have a fully functional system by the fall of 2002, although modifications will likely be made throughout the remainder of 2002 in preparation for the receipt of early warning information beginning in 2003.

Once the data are received, NHTSA will review the information for a given quarter to insure compliance with the requirements. In addition, as the data become available, historical trends will be evaluated and tracked. The tracking of the various submissions will be, in part, through statistical control mechanisms. The data provided by the manufacturers will be compared with other information available to NHTSA, including its existing databases. As necessary, supplemental information

will be requested from a manufacturer to expand on the routine early warning submissions.[6]

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 requiring manufacturers to submit to us is in their possession, or will be under the recordkeeping requirements that we are adopting. For example, if a manufacturer (as broadly defined in this rule) does not have ''possession'' of a complaint, 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 evading receipt of, or failing to obtain, maintain, and retain relevant records.

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 will have to be reported under this rule.[7]

C. The 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. The agency's Preliminary Regulatory Evaluation (PRE), which estimated costs to manufacturers and which was placed in the docket when the NPRM was published, took these comments into consideration. We anticipated that the additional detail in the NPRM and the PRE would 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.

There was no significant disagreement with the statement in the PRE that 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 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 and/or reorganize existing data elements such as the identification of components involved in claims, and add a process for dealing with foreign claims related to deaths.

In the NPRM, we significantly reduced the burden on manufacturers of vehicles and equipment from the levels that could have been required under the TREAD Act. 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 did not propose 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 did not propose to require at this time any information about incidents that occur in foreign countries except for those based on claims involving deaths.

We also considered requiring information for all systems and components of a vehicle, instead of those specified in Section IV.N above. We believed that the reduced number of components on which reporting is required would reduce reporting costs.

The PRE estimated 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 estimated 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. Similar estimates were made for each of the other groups of manufacturers. Cumulative costs for the other groups were significantly higher, since they included many more manufacturers, and many of those manufacturers are not as computerized today as the light vehicle manufacturers. Manufacturers contested most of our estimates.

Based on comments filed in response to the NPRM and on supplemental comments filed by the Alliance on May 3, 2002, we revised our estimates of the burdens associated with this rulemaking. Revised estimates for the

[6] This notice does not establish rules governing disclosure or confidentiality of information submitted pursuant to the early warning rule. The agency has published proposed amendments to 49 CFR Part 512, *Confidential Business Information* (67 FR 21198, April 30, 2002) and, as appropriate, in the course of that rulemaking will consider issues related to confidentiality and disclosure.

[7] As proposed in the NPRM, we are amending Part 576 to require similar retention of records by manufacturers of child restraint systems and tires. See discussion below.

costs associated with the NPRM were published in a notice published on June 25, 2002 pursuant to the Paperwork Reduction Act (67 FR 42843).

NHTSA's Final Regulatory Evaluation (FRE) (June 2002), which is in the docket, discusses benefits and costs associated with the final rule. A benefit from NHTSA's receipt of the early warning information is that NHTSA investigations will be opened sooner. As a result, recalls will be initiated earlier, defective vehicles and equipment will be taken off the roads sooner, and fewer injuries and fatalities, and less property damage, will occur. We expect that the analysis of the information will result in increased numbers of investigations and recalls, both by the manufacturers voluntarily and by NHTSA. However, the agency cannot quantify the benefits in terms of reduced fatalities, injuries, or property damage. The agency estimates that total manufacturers' recall costs could be reduced by $9 million per year because they will identify defective parts earlier, correct the deficiencies in ongoing production and avoid recall costs in the future. This is based on initiation of an average recall (manufacturer voluntary recall and NHTSA-influenced) three months earlier for those recalled vehicles that are still in production when the recall occurs and for which some recalled vehicles are three or more years old, and assumes an average recall cost of $100 per vehicle.

The FRE estimates the total first year costs (including computer startup costs, three years of limited historical data (i.e., warranty claims and field reports), and the four quarterly reports in the first year of submission) for the final rule will be about $70 million, and recurring annual costs will be about $1.72 million.

In summary, there are safety benefits associated with this final rule; however, we were unable to quantify them. There are start-up costs in the first year of the final rule of $70 million that are offset somewhat by economic benefits to manufacturers of $9 million per year. However, in the second and subsequent years, we estimate that benefits to the manufacturers of $9 million per year will outweigh the annual on-going costs of $1.72 million per year.

Apart from quantifiable costs, we emphasize that in this final rule we have significantly reduced many other burdens on manufacturers that had been proposed in the NPRM. Primary among these is the substantial reduction (over 50 percent) in the amount of historical reporting that will be required, since we will not require reporting of historical numbers of property damage claims and consumer complaints. In addition, we postponed the first reporting period for three months, extended the reporting dates for reports covering 2003, merged warranty and complaint reporting for child restraint system manufacturers at their request, expanded the exemption from most reporting for limited production tires by referring to the applicability section of the UTQGS, reduced the need to consult with outside legal counsel, withdrew the proposal to require manufacturers to redact personal identifiers from field reports, and provided for only limited updating of incident reports predicated on claims and notices involving deaths and injuries, rather than requiring repetitive checking to see if additional information becomes available. In addition, we significantly reduced the proposed record keeping requirements, primarily by retaining the existing five-year period rather than the ten years that we had proposed.

D. 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 the final early warning rule is in effect, 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 two years after the initial reports are received, that is to say, the summer of 2005. Subsequently, we plan to review our defect information-gathering procedures at least once every five years.

Although this final rule was preceded by an ANPRM and NPRM, we have received little comment on the impacts the final rule will have on manufacturers who are considered to be ''small businesses'' by the Small Business Administration (SBA) (e.g., trailer manufacturers who employ no more than 500 persons, and all other vehicle manufacturers who employ no more than 1,000 persons). While we have attempted to reduce the reporting burden on manufacturers who produce a limited number of vehicles a year, choosing 500 vehicles as an appropriate threshold, SBA has commented that there are manufacturers who produce more than 500 vehicles a year but who nevertheless are ''small businesses'' as defined by the SBA. SBA provided partial information on the numbers of such businesses, but we are as yet unable to determine the total number of ''small businesses'' in this category. Accordingly, we intend to continue our review of the industry to determine the number of such manufacturers who may be ''small businesses'' but required by the final rule to report in full. By mid-2005, we will have completed this review and expect to have received sufficient reports from these ''small business'' manufacturers to evaluate their assistance in detecting potential defects in their motor vehicles. We expect that this evaluation, in turn, will allow us to determine whether the threshold of 500 vehicles a year is appropriate or whether it should be modified.

VIII. 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 VII above, we proposed 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 proposed to extend the applicability of Part 576 to those equipment manufacturers from whom we will require full reporting, i.e., manufacturers of child restraint systems and of tires. We asked 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).

Towards this end, we tentatively concluded 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 proposed 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 tentatively decided that manufacturers of child restraint systems and tires should be required to retain records for ten and five years, respectively. Thus, our proposed Section 576.5(d), read as follows:

> (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.

Thirteen comments were submitted concerning the proposed changes in the record retention requirements. These were from Nissan, the Alliance, JPMA, RMA, Harley-Davidson, Bendix, Johnson, Ford, Utilimaster, AIAM, CU, MEMA, and GM. CU supported the proposal. Most of the remaining comments either questioned the reasonableness of the proposal or contended that various aspects of the proposal were inconsistent or confusing. In addition, some noted that the proposal did not specify a limit on the retention of records relating to incidents involving injury or death or limit the retention requirements to records located in the United States or pertaining to vehicles offered for sale in the United States.

A number of comments (Alliance, Nissan, Ford, GM) questioned the need for the agency to extend the current five-year record retention requirement to ten years for most categories of information that would be covered by the early warning reporting rules. These comments generally asserted that there is no reasonable justification for changes to existing requirements for a document to be retained for five years from the date that it was created, and that those requirements provide the agency with enough information to fully investigate any potential safety defects. In its comment, GM contended that there is nothing in the TREAD Act that would require an extension of the record retention period. Ford stated that defect investigations are unlikely to resolve reports of incidents that happened more than five years ago. AIAM observed that it is difficult to imagine that six to ten-year old records will contain information on an alleged problem that is not already present in data available for the most recent five years.

The agency has reevaluated the need for manufacturers to retain records that are more than five years old. We have concluded that our investigative needs, addressed to date by section 576.5 *et seq.*, have been adequately met by the existing requirement for manufacturers to retain complaints, reports, and other records for five years concerning malfunctions that may be related to motor vehicle safety. Accordingly, we have decided not to require that the records described in proposed Section 576.6 be retained for ten years. The agency is instead retaining the existing five-year retention period for those records.

We are adopting and slightly revising the requirement set forth in proposed Section 576.5(c), and in the first portion of proposed Section 576.5(d), relating to retention of the underlying records on which the information reported under the early warning rule is based. For smaller vehicle manufacturers and for manufacturers of equipment other than tires and child restraint systems, this would only apply to records related to these incidents that are referred to in claims and notices involving deaths. For other manufacturers, this would be the underlying records supporting the aggregate numbers of property damage claims, consumer complaints, warranty claims, and field reports that will be reported to NHTSA under paragraph (c) of Sections 579.21–579.26, as applicable. This will not add a significant burden, since most of these documents already were covered by existing Part 576. As discussed below, the retention period for these records will be five years from the date they are generated or acquired.

Proposed Section 576.5(e) would have required motor vehicle, child restraint system, and tire manufacturers to retain, for a period of one year, field reports from one of their employees or representatives or from the owners or operators of ten or more vehicles of the same make, model, and model year that they have manufactured, and a copy of each document reported to NHTSA for a customer satisfaction campaign, consumer advisory, and recall (other than those submitted pursuant to 49 CFR Parts 573 and 577). Because the covered manufacturers will be required to furnish all these documents to NHTSA, the agency has decided that there is no need for the manufacturers also to be required to retain copies of the documents within their own possession for one year. Therefore, we are not adopting the requirements proposed in Section 576.5(e). We are instead adopting language that expressly states that manufacturers are not required to retain copies of any document submitted to NHTSA under 49 CFR Parts 573 and 577 (which specify requirements for notifying the agency and owners of defects and noncompliances) and any document submitted under the early warning reporting requirements of Part 579. *See* Section 576.5(c).

We note that some comments (Alliance, JPMA, Ford) contended that NHTSA had not estimated the costs associated with doubling the record retention period, and had not demonstrated that the benefits that the agency could derive from increasing the retention period would outweigh the burden that increase would impose on affected manufacturers. However, these

comments are mooted by the fact that we are not adopting our proposal.

JPMA recommended that the agency adopt a five-year record retention requirement for child restraint system manufacturers, as opposed to the ten-year requirement proposed in the NPRM, on the basis that this duration is close to the recommended life of the product, and reasonably balances the costs of record retention with the goal of having a reasonable amount of information available to assist NHTSA in defect investigations. JPMA noted that record retention requirements would be imposed on child restraint system manufacturers for the first time. Thus, our final rule is in accord with the views of the representative of the child restraint system manufacturers.

RMA recommended that the proposed regulations be modified to require tire manufacturers to retain information for a period no longer than the five-year period succeeding the date of manufacture of the product identified in a property damage claim, warranty adjustment, or fatality or injury claim or notice. The comment does not explain why the retention period should run from the production date of the tire, as opposed to the date on which the record was acquired, as it does for motor vehicle and child restraint system manufacturers. To maintain consistency with those requirements, the agency believes that the retention period for records pertaining to tires should run for a period of five years from the date on which the record was acquired, and not from the date on which the tire was manufactured.

Our decision not to impose a ten-year record requirement also addresses a number of comments (Nissan, Alliance, AIAM, Harley-Davidson) which contended that the proposed regulatory language for Section 576.5 is confusing. These comments observed that paragraph (a) of this section would impose a ten-year retention period for the category of records described in Section 576.6, and that this description is broad enough to encompass the property damage claims, warranty claims, consumer complaints, and field reports for which a five-year retention period was proposed in paragraph (d) of the section, and the field reports for which a one-year retention period would be prescribed in paragraph (e). As noted above, the agency is leaving the existing five-year retention requirement for these records in place. We are also adopting a five-year retention requirement for the records that underlie the information reported to us under the early warning reporting requirements (claims and notices involving death or injury, and, as applicable depending on the type of product manufactured, property damage claims, warranty claims, consumer complaints, and field reports). This should eliminate any confusion as to the length of time that any given record must be retained.

Section 576.5(d), as proposed, would have created an exception from the five-year record retention requirement for property damage claims, warranty claims, consumer complaints and authorized dealers' field reports ''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.'' Aside from RMA's comment, noted above, the only other comment that addressed this provision was from GM, which stated that it did not understand why the agency would want to create such an exception from current record retention requirements. NHTSA has reassessed the need for the proposed exception in light of this comment, and the absence of any other comment concerning it from manufacturers who would be subject to the proposed record retention requirements. The agency has accordingly not incorporated the exception into Section 576.5(d).

Several comments were received regarding proposed Section 576.5(c), which stated: ''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.'' Most of these (Nissan, AIAM , Alliance, Bendix, Utilimaster, and Harley-Davidson) observed that the proposed language specifies no limit for the retention of claims and notices involving death or injury. The Alliance contended that such an indefinite retention period is inconsistent with OMB regulations requiring agencies to establish maximum retention periods.

The agency recognizes that it inadvertently omitted a time period for retention of these documents. Accordingly, we will add language clarifying that the retention period for all records underlying the early warning submissions is five years from the date the record is generated or acquired. This will make the retention period for such claims and notices involving deaths or injuries consistent with that for all other categories of records covered by the retention requirements.

MEMA agreed with the proposal not to extend most record retention requirements to original and replacement equipment manufacturers, except for manufacturers of tires and child restraint systems. The comment noted that a substantial number of vehicle parts and equipment manufacturers are small businesses, and that applying the record retention requirement to those manufacturers would add an unnecessary cost burden. Accordingly, MEMA supports extending these requirements only to those equipment manufacturers from whom the agency would require full reporting (i.e., tire and child restraint system manufacturers). It recommended that proposed Section 576.5(c) be amended to clarify that it would only apply to motor vehicle, tire, and child restraint system manufacturers. MEMA (and Johnson) noted that absent such an amendment, proposed Section 576.5(c) would be inconsistent with the proposed sections on ''Scope'' (576.1) and ''Application'' (576.3) of Part 576.

We acknowledge the inconsistency. However, we are addressing it by revising the language of Sections 576.1 and 576.3, rather than by allowing equipment manufacturers to destroy documents related to incidents involving claims for deaths attributed to their products. These documents could be very relevant to agency defect investigations. Moreover, the burden of retaining them is exceedingly slight; there are likely to be very few claims and notices received by these manufacturers. Thus, under new Section 576.5(b), the requirement to retain documents related to incidents involving deaths reported to us for five years applies to *all* vehicle and equipment manufacturers.

The Alliance and Nissan observed that as proposed, the record retention requirements would not be limited to documents related to vehicles offered for sale in the United States. The comments asserted that there must be a nexus to the United States for the record retention requirements. Johnson submitted similar comments. We decline to expressly limit the retention requirements to records located within the United States. The agency notes in this regard that the early warning reporting rules will require reports of 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 product, if that product is identical or substantially similar to a product that the manufacturer has offered for sale in the United States.'' *See,* e.g., Section 579.21(b)(1). A manufacturer's ability to provide follow-up information if requested would be diminished if the agency were to expressly limit the record retention requirement to records located in the United States. Similarly, the purposes of

the rule and the agency's ability to conduct effective defect investigations would be undermined if we were to limit the record retention requirements to documents related to vehicles offered for sale in the United States.

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 conforming change to Part 576, we proposed adopting conforming amendments to Sections 574.6(d) and 574.10 under which these records will also be held for five years. There were no comments on the proposal, and Sections 574.6(d) and 574.10 are being adopted as proposed.

IX. 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 adoption of 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. We proposed a Section 579.5(a) which is identical to Section 573.8. There were no comments on that proposal. The final rule achieves the transfer with the removal of Section 573.8 and the adoption of Section 579.5(a).

There currently exists a regulation at 49 CFR Part 579, *Defect and Noncompliance Responsibility* (2001). This regulation sets forth the responsibilities of various types of manufacturers for safety-related defects and noncompliances. As such, we feel that it would be appropriate for its specifications to be moved to Part 573. Accordingly, we are also amending Part 573 to incorporate these specifications as part of this rulemaking document. These are reflected in amendments to the scope, purpose, and definitions of Part 573, and the addition of the substantive requirements of former Section 579.5 as a new Section 573.5, with other sections of Part 573 renumbered accordingly.

X. 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 Executive Order 12866 the Department of Transportation's regulatory policies and procedures. This rulemaking has been determined to be significant by the Office of Management and Budget under Executive Order 12866 because of congressional interest. For the same reason, this action has also been determined to be significant under DOT's regulatory policies and procedures. A detailed discussion of impacts can be found in the Final Regulatory Evaluation (FRE) that the agency has prepared for this rulemaking and filed in the docket. This action does not impose requirements on the design or production of motor vehicles or motor vehicle equipment; it only requires reporting of information in the possession of the manufacturer.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (5 U.S.C. § 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Business entities are defined as small by standard industry classification for the purposes of receiving Small Business Administration (SBA) assistance. One of the criteria for determining size, as stated in 13 CFR 121.201, is the number of employees in the firm; another criteria is annual receipts. For establishments primarily engaged in manufacturing or assembling automobiles, light and heavy duty trucks, buses, motor homes, new tires, or motor vehicle body manufacturing, the firm must have less than 1,000 employees to be classified as a small business. For establishments manufacturing many of the safety systems for which reporting will be required, steering, suspension, brakes, engines and power trains, or electrical system, or other motor vehicle parts not mentioned specifically in this paragraph, the firm must have less than 750 employees to be classified as a small business. For establishments manufacturing truck trailers, motorcycles, child restraints, lighting, motor vehicle seating and interior trim packages, alterers and second-stage manufacturers, or re-tread tires the firm must have less than 500 employees to be classified as a small business.

In Section VII.D, *Periodic Review,* above, we noted that there is some uncertainty about the number of small businesses who may be subject to reporting requirements beyond incidents involving death. Below we estimate that there could be as few as 15 or as many as hundreds that produce more than 500 vehicles. Because of the uncertainty, we are conducting a review of this industry to determine how many small businesses would be subject to more extensive reporting, which is expected to be completed by mid-2005.

There may also be some uncertainty about the impacts. In our view, the more extensive reporting required of these small businesses will not impose a cost burden on them that is significantly different from the burden on those producing fewer than 500 vehicles. The costs of reporting are directly related to the volume of reportable communications submitted to manufacturers. Even though some small businesses would be reporting on more categories of information and at more frequent intervals, the total number of reportable communications would probably be low enough that the company would be able to use its existing computers with commercially available software to prepare its reports, without having to invest in a new computer system. However, we will want to confirm this as part of our review.

Based on the best information available to us at this time, I certify that this final rule will not have a significant

economic impact on a substantial number of small entities. Information on the number of small businesses manufacturing relevant equipment or vehicles currently sold in the United States, by product category, is presented below.

1. *Passenger cars and light trucks, including vans, SUV's and pickups.* There are 16 major manufacturers of passenger cars and light trucks, including vans, SUV's and pickups sold in the United States. All are large businesses by the definition of having more than 1,000 employees. In addition, NHTSA knows of four small manufacturers of (complete) motor vehicles in the United States accounting for less than 1 percent of U.S. production, and in addition, several hundred small enterprises that modified or completed unfinished vehicles, of which many were van converters.

2. *Medium and heavy trucks.* NHTSA believes there are 12 manufacturers of medium and heavy trucks sold in the United States. All are large businesses with more than 1,000 employees.

3. *Buses.* NHTSA believes there are 19 bus manufacturers, of which 14 are small manufacturers with less than 1,000 employees.

4. *Motorcycles.* Based on docket comments, there are 12 motorcycle or moped manufacturers. We identified 2 motorcycle manufacturers as small businesses with less than 500 employees.

5. *Trailers.* We estimate that there are 8 large trailer manufacturers and hundreds of small businesses that manufacture trailers (boat trailers, U-haul type trailers, horse trailers, landscape, tree, and yard care equipment trailers, motorcycle/all-terrain vehicle trailers, cars-in tow trailers, and work-performing equipment trailers, e.g., compressors, signs, lights/generators, leaf collecting/mulch, roof and road tar heating).

6. *Tires.* NHTSA believes there are 10 tire manufacturers, which are all large businesses. The International Tire and Rubber Association website indicates that there are approximately 1,126 retread tire plants in the United States, of which approximately 95 percent are owned/operated by small businesses with less than 500 employees.

7. *Child restraint systems.* Available information on child restraint system manufacturers yields a total of 10 independent enterprises, of which 3 have less than 500 employees and qualify as small businesses.

8. *Manufacturers of original equipment and manufacturers of replacement equipment other than child restraint systems and tires.* While there are many manufacturers of original and replacement equipment (other than manufacturers of child restraint systems and tires) that are small businesses, these manufacturers will have a reporting obligation under this regulation limited to incidents of death involving their products. These are expected to be rare. Thus, this rule will have only a slight impact on these manufacturers.

The agency has decided to limit the impact on small businesses by excluding from most of the reporting requirements any vehicle manufacturer that produces fewer than 500 vehicles a year, by category of vehicle. This exclusion will apply to many of the small businesses discussed above. We will also exclude registered importers (the vehicles imported by registered importers generally comprise a mixed fleet fabricated by more than a single company). However, these smaller-volume manufacturers will not be exempt from the requirements to report to us claims submitted against them for death, and to report notices of fatalities that are alleged or proven to have been caused by possible defects in their vehicles in the United States. We suspect there will be very few reports per year from manufacturers that produce fewer than 500 vehicles per year.

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.'' The agency has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This final rule regulates the manufacturers of motor vehicles and motor vehicle equipment and will 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. This final rule will 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 requires manufacturers of motor vehicles and motor vehicle equipment to report information and data to NHTSA periodically. While we have not adopted a standardized form for reporting information, we will be requiring manufacturers to submit information utilizing specified templates. The provisions of this rule, including document retention 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 1320. We have requested and received emergency clearance from OMB for the information collection required by this rule. The clearance number is 2127–0616, expiration date September 30, 2002. To obtain a three-year clearance for information collection, we published a Paperwork Reduction Act notice on June 25, 2002 (67 FR 42843) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Comments are due by August 26, 2002. We request that comments relating to the Paperwork Reduction Act be directed to that notice.

Data Quality Guidelines

The information that NHTSA is mandated to collect may be made available to the public via the agency's website. The distribution of such data via the agency's website may constitute ''information dissemination'' as that term is defined under the Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (''Information Quality Guidelines'') issued by the Office of Management and Budget (OMB) (67 FR 8452, Feb. 22, 2002) and prepared, in draft form, by the Department of Transportation (DOT) (67 FR 21319, Apr. 30. 2002). DOT's final Guidelines will be issued by October 1, 2002.

If a determination were made that the public distribution of the early warning data constituted information dissemination and was, therefore, subject to the OMB/DOT Information Quality Guidelines, then the agency would review the information prior to distribution to ascertain its utility, objectivity, and integrity (collectively, ''quality''). Under the Guidelines, any affected person who believed that the

information ultimately disseminated by NHTSA was of insufficient quality could file a complaint with the agency. The agency would review the disputed information, make an initial determination of whether it agreed with the complainant, and notify the complainant of its initial determination. Once notified of the initial determination, the affected person could file an appeal with the agency.

List of Subjects

49 CFR Part 573

Motor vehicle equipment, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires.

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 amended as follows:

PART 573—DEFECT AND NONCOMPLIANCE RESPONSIBILITY AND REPORTS

1. Part 573 heading is revised to read as set forth above.

2. The authority citation for part 573 is revised to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

3. Section 573.1 is revised to read as follows:

§ 573.1 Scope.

This part:

(a) Sets forth the responsibilities under 49 U.S.C. 30117–30120 of manufacturers of motor vehicles and motor vehicle equipment with respect to safety-related defects and noncompliances with Federal motor vehicle safety standards in motor vehicles and items of motor vehicle equipment; and

(b) Specifies requirements for—

(1) Manufacturers to maintain lists of purchasers and owners notified of defective and noncomplying motor vehicles and motor vehicle original and replacement equipment,

(2) Reporting to the National Highway Traffic Safety Administration (NHTSA) defects in motor vehicles and motor vehicle equipment and noncompliances with motor vehicle safety standards prescribed under part 571 of this chapter, and

(3) Providing quarterly reports on defect and noncompliance notification campaigns.

4. Section 573.2 is revised to read as follows:

§ 573.2 Purposes.

The purposes of this part are:

(a) To facilitate the notification of owners of defective and noncomplying motor vehicles and items of motor vehicle equipment, and the remedy of such defects and noncompliances, by equitably apportioning the responsibility for safety-related defects and noncompliances with Federal motor vehicle safety standards among manufacturers of motor vehicles and motor vehicle equipment; and

(b) To inform NHTSA of defective and noncomplying motor vehicles and items of motor vehicle equipment, and to obtain information for NHTSA on the adequacy of manufacturers' defect and noncompliance notification campaigns, on corrective action, on owner response, and to compare the defect incidence rate among different groups of vehicles.

5. Section 573.4 is amended by adding in alphabetical order definitions for Original equipment and Replacement equipment to read as follows:

§ 573.4 Definitions.

* * * * *

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 was installed by the dealer or distributor with the express authorizations of the motor vehicle manufacturer.

* * * * *

Replacement equipment means motor vehicle equipment other than original equipment as defined in this section, and tires.

§ 573.8 [Removed]

6. Section 573.8 is removed.

§§ 573.5 through 573.7 [Redesignated as §§ 573.6 through 573.8]

7. Sections 573.5 through 573.7 are redesignated as §§ 573.6 through 573.8 respectively.

8. New § 573.5 is added to read as follows:

§ 573.5 Defect and noncompliance responsibility.

(a) Each manufacturer of a motor vehicle shall be responsible for any safety-related defect or any noncompliance determined to exist in the vehicle or in any item of original equipment.

(b) Each manufacturer of an item of replacement equipment shall be responsible for any safety-related defect or any noncompliance determined to exist in the equipment.

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

9. The authority citation 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.

10. Section 574.7(d) preceding the graphic is revised to read as follows:

§ 574.7 Information requirements—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.

* * * * *

11. Section 574.10 is amended by revising the last 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

12. 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.

13. Section 576.1 is revised to read as follows:

§ 576.1 Scope.

This part establishes requirements for the retention by manufacturers of motor vehicles and of motor vehicle equipment, of claims, complaints, reports, and other records concerning alleged and proven motor vehicle or motor vehicle equipment defects and

malfunctions that may be related to motor vehicle safety.

14. Section 576.3 is 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 motor vehicle equipment, with respect to all records in their possession, generated or acquired on or after August 9, 2002.

15. Section 576.4 is 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.

16. Section 576.5 is revised to read as follows:

§ 576.5 Basic requirements.

(a) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain, as specified in § 576.7 of this part, 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.

(b) Each manufacturer of motor vehicles and motor vehicle equipment shall retain, as specified in § 576.7 of this part, all the underlying records on which the information reported under part 579 of this chapter is based, for a period of five calendar years from the date on which they were generated or acquired by the manufacturer, except as provided in paragraph (c) of this section.

(c) Manufacturers need not retain copies of documents transmitted to NHTSA pursuant to parts 573, 577, and 579 of this chapter.

17. Section 576.6 is 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.

18. Part 579 is 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 and buses annually.
579.23 Reporting requirements for manufacturers of 500 or more motorcycles annually.
579.24 Reporting requirements for manufacturers of 500 or more trailers annually.
579.25 Reporting requirements for manufacturers of child restraint systems.
579.26 Reporting requirements for manufacturers of tires.
579.27 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.
579.28 Due date of reports and other miscellaneous provisions.
579.29 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 reports 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 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 motor vehicles and motor vehicle equipment that have been offered for sale, sold, or leased in the United States by the manufacturer, including any parent corporation, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation, and with respect to all motor vehicles and motor vehicle equipment that have been offered for sale, sold, or leased in a foreign country by the manufacturer, including any parent corporation, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation, and are substantially similar to any motor vehicles or motor vehicle equipment that have been offered for sale, sold, or leased in the United States.

(b) In the case of any report required under subpart C of this part, compliance by the fabricating manufacturer, the importer, the brand name owner, or a parent or United States subsidiary of such fabricator, importer, or brand name owner of the motor vehicle or motor vehicle equipment, shall be considered compliance by all persons.

(c) With regard to any information required to be reported under subpart C of this part, an entity covered under paragraph (a) of this section need only review information and systems where information responsive to subpart C of this part is kept in the usual course of business.

§ 579.4 Terminology.

(a) *Statutory terms.* The terms *dealer, defect, distributor, motor vehicle, motor vehicle equipment,* and *State* are used as defined in 49 U.S.C. 30102.

(b) *Regulatory terms.* The term *Vehicle Identification Number (VIN)* is used as defined in § 565.3(o) of this chapter. The terms *bus, Gross Vehicle Weight Rating (GVWR), motorcycle, multipurpose passenger vehicle, passenger car, trailer,* and *truck* are used as defined in § 571.3(b) of this chapter.

The term *Booster seat* is used as defined in S4 of § 571.213 of this chapter. The term *Tire Identification Number (TIN)* is the ''tire identification number'' described in § 574.5 of this chapter. The term *Limited production tire* is used as defined in § 575.104(c)(2) 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.

Affiliate means, in the context of an affiliate of or person affiliated with a specified person, a person that directly, or indirectly through one or more intermediates, controls or is controlled by, or is under common control with, the person specified. The term person usually is a corporation.

Air bag means an air bag or other automatic occupant restraint device (other than a ''seat belt'' as defined in this subpart) installed in a motor vehicle that restrains an occupant in the event of a vehicle crash without requiring any action on the part of the occupant to obtain the benefit of the restraint. This term includes inflatable restraints (front and side air bags), knee bolsters, and any other automatic restraining device that may be developed that does not include a restraining belt or harness. This term also includes all air bag-related components, such as the inflator assembly, air bag module, control module, crash sensors and all hardware and software associated with the air bag. This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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 all the materials in a tire below the sidewalls in the rim contact area, including bead rubber components, the bead bundle and rubber coating if present, the body ply and its turn-up including the rubber coating, rubber, fabric, or metallic reinforcing materials, and the inner-liner rubber under the bead area.

Brand name owner means a person that markets a motor vehicle or motor vehicle equipment under its own trade name whether or not it is the fabricator or importer of the vehicle or equipment.

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, buckles, buckle release mechanism, belt adjusters, belt positioning devices, and shields.

Child restraint system means any system that meets, or is offered for sale in the United States as meeting, any definition in S4 of § 571.213 of this chapter, or that is offered for sale as a child restraint system in a foreign country.

Claim means a written request or written 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 originating in or from a motor vehicle or a substance that leaked from a motor vehicle. 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(s) stating a claim. Claim does not include demands related to asbestos exposure, to emissions of volatile organic compounds from vehicle interiors, or to end-of-life disposal of vehicles, parts or components of vehicles, equipment, or parts or components of equipment.

Common green tires means tires that are produced to the same internal specifications but that have, or may have, different external characteristics and may be sold under different tire line names.

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer addressed to the company, an officer thereof or an entity thereof that handles consumer matters, a manufacturer website that receives consumer complaints, a manufacturer electronic mail system that receives such information at the corporate level, or that are otherwise received by a unit within the manufacturer that receives consumer inquiries or complaints, including telephonic complaints, 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.

Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means 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 repair, replacement, or modification of a vehicle, component of a vehicle, item of equipment, or a component thereof, the manner in which a vehicle or child restraint system is to be maintained or operated (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale); 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.

Electrical system means any electrical or electronic component of a motor vehicle that is not included in one of the other reporting categories enumerated in subpart C of this part, and specifically includes the battery, battery cables, alternator, fuses, and main body wiring harnesses of the motor vehicle and the ignition system, including the ignition switch and starter motor. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Engine and engine cooling means the component (e.g., motor) of a motor vehicle providing motive power to the vehicle, and includes the exhaust system (including the exhaust emission system), the engine control unit, engine lubrication system, and the underhood cooling system for that engine. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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.

Exterior lighting mean all the exterior lamps (including any interior-mounted center highmounted stop lamp if mounted in the interior of a vehicle), lenses, reflectors, and associated equipment of a motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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 for sale by that manufacturer, regardless of whether verified or assessed to be lacking in merit, but does not include a document contained in a litigation file that was created after the date of the filing of a civil complaint that relates to the specific vehicle, component, or system at issue in the litigation.

Fire means combustion or burning 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.

Fuel system means all components of a motor vehicle used to receive and store fuel, and to transfer fuel between the vehicle's fuel storage, engine, or fuel emission systems. This term includes, but is not limited to, the fuel tank and filler cap, neck, and pipe, along with associated piping, hoses, and clamps, the fuel pump, fuel lines, connectors from the fuel tank to the engine, the fuel injection/carburetion system (including fuel injector rails and injectors), and the fuel vapor recovery system(s), canister(s), and vent lines. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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, or under a safety recall reported to NHTSA under part 573 of this chapter.

Incomplete light vehicle means an incomplete vehicle as defined in § 568.3 of this chapter which, when completed, will be a light vehicle.

Integrated child restraint system means a factory-installed built-in child restraint system as defined in S4 of § 571.213 of this chapter and includes any factory-authorized built-in child restraint system.

Latch means a latching, locking, or linking system of a motor vehicle and all its components fitted to a vehicle's exterior doors, rear hatch, liftgate, tailgate, trunk, or hood. This term also 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, and includes all components covered in FMVSS No. 206. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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.

Manufacturer means a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale. This term includes any parent corporation, any subsidiary or affiliate, and any subsidiary or affiliate of a parent corporation of such a person.

Medium-heavy vehicle means any motor vehicle, except a 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 manufacturer and the model (either the model name or model number),

(3) for a tire, the manufacturer, tire line, and tire size, and

(4) for other motor vehicle equipment, the manufacturer and, if there is a model or family of models identified on the item of equipment, 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 the year that a manufacturer uses to designate a discrete model of vehicle, irrespective of the calendar year in which the vehicle was manufactured; if a year is not so designated, it means the year the vehicle was produced. For equipment, it means the year that the item was produced.

Notice means a document, other than a media article, that does not include a demand for relief, and that a manufacturer receives from a person other than NHTSA.

Parking brake means a mechanism installed in a motor vehicle which is designed to prevent the movement of a stationary motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Platform means the basic structure of a vehicle including, but not limited to, the majority of the floorpan or undercarriage, and elements of the engine compartment. The term includes a structure that a manufacturer designates as a platform. A group of vehicles sharing a common structure or chassis shall be considered to have a common platform regardless of whether such vehicles are of the same type, are of the same make, or are sold by the same manufacturer.

Power train means the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including the transmission (manual and automatic), gear selection devices and associated linkages, clutch, constant velocity joints, transfer case, driveline, differential(s), and all driven axle assemblies. This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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.

Rear-facing infant seat means a child restraint system that positions a child to face in the direction opposite to the

normal direction of travel of the motor vehicle.

Reporting period means a calendar quarter of a year, unless otherwise stated.

Rollover means a single-vehicle crash in which a motor vehicle rotates on its longitudinal axis to at least 90 degrees, regardless of whether it comes to rest on its wheels.

Seats means all components of a motor vehicle that are subject to FMVSS Nos. 202, 207, and S9 of 209, including all electrical and electronic components within the seat that are related to seat positioning, heating, and cooling. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Seat belts means any belt system, other than an air bag, that may or may not require the occupant to latch, fasten, or secure the components of the seat belt/webbing based restraint system to ready its use for protection of the occupant in the event of a vehicle crash. This term includes the webbing, buckle, anchorage, retractor, belt pretensioner devices, load limiters, and all components, hardware and software associated with an automatic or manual seat belt system addressed by FMVSS No. 209 or 210. This term also includes integrated child restraint systems in vehicles, and includes any device (and all components of that device), installed in a motor vehicle in accordance with FMVSS No. 213, which is designed for use as a safety restraint device for a child too small to use a vehicle's seat belts. This term includes all vehicle components installed in accordance with FMVSS No. 225. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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 belt attachment points, and anchorage points to allow the system to be secured to a passenger seat in a motor vehicle, but not including a shield.

Service brake system means all components of the service braking system of a motor vehicle intended for the transfer of braking application force from the operator to the wheels of a vehicle, including the foundation braking system, such as the brake pedal, master cylinder, fluid lines and hoses, braking assist components, brake calipers, wheel cylinders, brake discs, brake drums, brake pads, brake shoes, and other related equipment installed in a motor vehicle in order to comply with FMVSS Nos. 105, 121, 122, or 135. This term also includes systems and devices for automatic control of the brake system such as antilock braking, traction control, stability control, and enhanced braking. The term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Sidewall means the area of a tire between the tread and the bead area, including the sidewall rubber components, the body ply and its coating rubber under the side area, and the inner-liner rubber under the body ply in the side area.

SKU (Stock Keeping Unit) means the alpha-numeric designation assigned by a manufacturer to a tire product.

Steering system means all steering control system components, including the steering system mechanism and its associated hardware, the steering wheel, steering column, steering shaft, linkages, joints (including tie-rod ends), steering dampeners, and power steering assist systems. This term includes a steering control system as defined by FMVSS No. 203 and any subsystem or component of a steering control system, including those components defined in FMVSS No. 204. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Structure means any part of a motor vehicle that serves to maintain the shape and size of the vehicle, including the frame, the floorpan, the body, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof. The term also includes all associated mounting elements (such as brackets, fasteners, etc.).

Suspension system means all components and hardware associated with a motor vehicle suspension system, including the associated control arms, steering knuckles, spindles, joints, bushings, ball joints, springs, shock absorbers, stabilizer (anti sway) bars, and bearings that are designed to minimize the impact on the vehicle chassis of shocks from road surface irregularities that may be transmitted through the wheels, and to provide stability when the vehicle is being operated through a range of speed, load, and dynamic conditions. The term also includes all electronic control systems and mechanisms for active suspension control, as well as all associated components such as switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Tire means an item of motor vehicle equipment intended to interface between the road and a motor vehicle. The term includes all the tires of a vehicle, including the spare tire. This term also includes the tire inflation valves, tubes, and tire pressure monitoring and regulating systems, as well as all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Tire line means the entire name used by a tire manufacturer to designate a tire product including all prefixes and suffixes as they appear on the sidewall of a tire.

Trailer hitch means all coupling systems, devices, and components thereof, designed to join or connect any two motor vehicles. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Tread (also known as crown) means all materials in the tread area of a tire including the rubber that makes up the tread, the 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 same including any rubber inserts, the body ply and its coating rubber under the tread area of the tire, and the inner-liner rubber under the tread.

Type means, in the context of a light vehicle, a vehicle certified by its manufacturer pursuant to § 567.4(g)(7) of this chapter as a passenger car, multipurpose passenger vehicle, or truck, or a vehicle identified by its manufacturer as an incomplete vehicle pursuant to § 568.4 of this chapter. In the context of a child restraint system, it means the category of child restraint system selected from one of the following: rear-facing infant seat, booster seat, or other.

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 (such as cruise control) and speed limiting devices. This term includes, but is not limited to the items addressed by FMVSS No. 124 and all

associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Visibility 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. This term includes those vehicular systems and components that can affect the ability of the driver to clearly see the roadway and surrounding area, such as the systems and components identified in FMVSS Nos. 103, 104, and 111. This term also includes the defogger/defroster system, the heater core, blower fan, windshield wiper systems, mirrors, windows and glazing material, heads-up display (HUD) systems, and exterior view-based television systems, but does not include exterior lighting systems which are defined under ''Lighting.'' This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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 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 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 adjustment means any payment or other restitution, such as, but not limited to, replacement, repair, credit, or cash refund, made by a tire manufacturer to a consumer or to a dealer, in reimbursement for payment or other restitution to a consumer, pursuant to a warranty program offered by the manufacturer.

Warranty claim means any claim paid by a manufacturer, including provision of a credit, pursuant to a warranty program, an extended warranty program, or good will. It does not include claims for reimbursement for costs or expenses for work performed to remedy a safety-related defect or noncompliance reported to NHTSA under part 573 of this chapter, or in connection with an emissions-related recall under the Clean Air Act.

Wheel means the assembly or component of a motor vehicle to which a tire is mounted. The term includes any item of motor vehicle equipment used to attach the wheel to the vehicle, including inner cap nuts and the wheel studs, bolts, and nuts.

(d) *Terms related to foreign claims.* 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 the VSP or VSA columns of Appendix A to part 593 of this chapter;

(iii) Such a vehicle is manufactured in the United States for sale in a foreign country; or

(iv) 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, and the component or system performs the same function in vehicles or equipment sold or offered for sale in the United States, 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 size, speed rating, load index, load range, number of plies and belts, and similar ply and belt construction and materials, placement of components, and component materials, irrespective of plant of manufacture or tire line.

§ 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, lessor, 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 not more than five working days after the end of the month in which it was issued. 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, reports, and documents required to be submitted to NHTSA pursuant to this part, if submitted by mail, must be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA), 400 7th Street, SW., Washington, D.C. 20590. Information, documents, and reports that are submitted to NHTSA's early warning data repository shall be submitted in accordance with § 579.29 of this part. 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 each of the prior two calendar years is 500 or more shall submit the information described in this section. 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 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 type, the platform, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased.

(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 a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury 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 a claim against and received by the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on light vehicles and organized such that incidents are reported alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN 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 or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, 10 power train, 11 electrical system, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 22 seats, 23 fire, 24 rollover, 98 where a system or component not covered by categories 01 through 22 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire or rollover indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire or rollover.

(d) *Copies of field reports.* 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) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

§ 579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles and buses annually.

For each reporting period, a manufacturer whose aggregate number of medium-heavy vehicles and 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 information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and model year of medium-heavy vehicle and 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, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased. For each model that is manufactured and available with more than one type of fuel system (i.e., gasoline, diesel, or other (including vehicles that can be operated using more than one type of fuel, such as gasoline and compressed natural gas)), the information required by this subsection shall be reported separately by each of the three fuel system types. For each model that is manufactured and available with more than one type of service brake system (i.e., hydraulic or air), the information required by this subsection shall be reported by each of the two brake types. If the service brake system in a vehicle is not readily characterized as either hydraulic or air, the vehicle shall be considered to have hydraulic service brakes.

(b) *Information on incidents involving death or injury.* For all medium-heavy

vehicles and buses 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 a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury 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 a claim against and received by the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on medium-heavy vehicles and buses and organized such that incidents are reported alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the medium-heavy vehicle or 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 vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, gasoline, 08 fuel system, diesel, 09 fuel system, other, 10 power train, 11 electrical, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 21 trailer hitch, 22 seats, 23 fire, 24 rollover, 98 where a system or component not covered by categories 01 through 22 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire or rollover indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire or rollover.

(d) *Copies of field reports.* For all medium-heavy vehicles and 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) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

§ 579.23 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 information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, 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, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year 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 each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury 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 a claim against and received by the manufacturer involving the manufacturer's motorcycle, if that motorcycle is identical or substantially similar to a motorcycle that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on motorcycles and organized such that incidents are reported alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN 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 the incident involved a fire, coded as follows: 01 steering, 02 suspension, 03 service brake system, 06 engine and engine cooling, 07 fuel system, 10 power train, 11 electrical, 12 exterior lighting, 16 structure,18 vehicle speed control, 19 tires, 20 wheels, 23 fire, 98 where a system or component not covered by categories 01 through 20 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field

reports which involve the systems and components that are specified in codes 01 through 22 in paragraph (b)(2) of this section, or a fire (code 23). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire.

(d) *Copies of field reports.* 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) involving one or more of the components identified in paragraph (b)(2) of this section, or fire, containing any assessment of an alleged failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year.

§ 579.24 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 information described in this section. For paragraphs (a) and (c) of this section, the 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, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased. For each model that is manufactured and available with more than one type of service brake system (i.e., hydraulic or air), the information required by this subsection shall be reported by each of the two brake types. If the service brake system in a trailer is not readily characterized as either hydraulic or air, the trailer shall be considered to have hydraulic service brakes.

(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 each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury 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 a claim against and received by the manufacturer involving the manufacturer's trailer, if that trailer is identical or substantially similar to a trailer that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on trailers and organized such that incidents are reported alphabetically by make, with each make alphabetically by model, and within each model chronologically by model year.

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN 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 the incident involved a fire, coded as follows: 02 suspension, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 11 electrical, 12 exterior lighting, 16 structure, 17 latch, 19 tires, 20 wheels, 21 trailer hitch, 23 fire, 98 where a system or component not covered by categories 02 through 21 is specified in the claim or notice, and 99 where no system or component of the trailer is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 02 through 21 in paragraph (b)(2) of this section, or a fire (code 23). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire.

(d) *Copies of field reports.* 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) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, containing any assessment of an alleged failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, with each make alphabetically by model, and within each model chronologically by model year.

§ 579.25 Reporting requirements for manufacturers of child restraint systems.

For each reporting period, a manufacturer who has manufactured for sale, offered for sale, imported, or sold child restraint systems in the United States shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and production year of child restraint system manufactured during the reporting period and the four production years prior to the earliest production 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 production year, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total calendar year production for each calendar year for which production has ceased.

(b) *Information on incidents involving death or injury.* For all child restraint systems less than five calendar years old as of 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 a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury 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 a claim against and received by the manufacturer involving the manufacturer's child restraint system, if the child restraint system 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 submitted as a report on child restraint systems and organized such that incidents are reported alphabetically by make, within each make alphabetically by model, and within each model chronologically by production year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, and production 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, coded as follows: 51 buckle and restraint harness, 52 seat shell, 53 handle, 54 base, 98 where a system or component not covered by categories 51 through 54 is specified in the claim or notice, and 99 where no system or component of the child restraint system is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report.

(c) *Numbers of consumer complaints and warranty claims, and field reports.* Separate reports on the numbers of those consumer complaints and warranty claims, and field reports, which involve the systems and components that are specified in codes 51 through 54 in paragraph (b)(2) of this section. Each such report shall state, separately by each such code, the number of such consumer complaints and warranty claims, or field reports, respectively, that involves the systems or components indicated by the code. If an underlying consumer complaint and warranty claim, or field report, involves more than one such code, each shall be counted separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes.

(d) *Copies of field reports.* For all child restraint systems less than five years old as of the beginning of the reporting period, a copy of each field report (other than a dealer field report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, containing any assessment of an alleged failure, malfunction, lack of durability or other performance problem of the child restraint system (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during the reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by production year.

§ 579.26 Reporting requirements for manufacturers of tires.

For each reporting period, a manufacturer (including a brand name owner) who has manufactured for sale, offered for sale, imported, or sold tires in the United States shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each tire line, size, SKU, plant where manufactured, and model year of tire manufactured during the reporting period and the four calendar years prior to the earliest model year in the reporting period including tire lines no longer in production. For tires that are limited production tires or are otherwise exempted from the Uniform Tire Quality Grading Standards by § 575.104(c)(1) of this chapter, or are not passenger car tires, light truck tires, or motorcycle tires, the manufacturer need report only information on incidents involving a death, as specified in paragraph (b) of this section.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the tire line, the tire size, the tire type code, the SKU, the plant where manufactured, whether the tire is approved for use as original equipment on a motor vehicle, if so, the make, model, and model year of each vehicle for which it is approved, the production year, the cumulative warranty production, and the cumulative total production through the end of the reporting period.

(b) *Information on incidents involving death or injury.* (1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury was caused by a possible defect in the manufacturer's tire, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by the manufacturer involving the manufacturer's tire, if that tire is identical or substantially similar to a tire that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on tires and organized such that incidents are reported alphabetically by tire line, within each tire line by tire size, and within each tire size chronologically by production year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the tire line, size, and production year of the tire, the TIN, 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 that allegedly contributed to the incident, coded as follows: 71 tread, 72 sidewall, 73 bead, 98 where a component not covered by categories 71 through 73 is specified in the claim or notice, and 99 where no component of the tire is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report.

(c) *Numbers of property damage claims and warranty adjustments.* Separate reports on the numbers of those property damage claims and warranty adjustments which involve the components that are specified in codes 71 through 73, and 98, in paragraph (b)(2) of this section. Each such report shall state, separately by each such code, the numbers of such property damage claims and warranty adjustments, respectively, that involve the components indicated by the code.

If an underlying property damage claim or warranty adjustment involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes.

(d) *Common green tire reporting.* With each quarterly report, each manufacturer of tires shall provide NHTSA with a list of common green tires. For each specific common green tire grouping, the list shall provide all relevant tire lines, tire type codes, SKU numbers, plant where manufactured, brand names, and brand name owners.

§ 579.27 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 579.24 of this part, to all manufacturers of original equipment, to all manufacturers of replacement equipment other than manufacturers of tires and child restraint systems, and to registered importers registered under 49 U.S.C. 30141(c).

(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 (four calendar years for equipment), including models no longer in production, on each incident involving one or more deaths occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death was caused by a possible defect in the manufacturer's vehicle or equipment, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by 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 make, within each make alphabetically by model, and within each model chronologically by model year.

(c) For each incident described in paragraph (b) of this section, the manufacturer shall separately report the make, model, and model year of the vehicle or equipment, the VIN (for vehicles only), 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 or equipment that allegedly contributed to the incident, and whether the incident involved a fire or rollover, as follows:

(1) For light vehicles, the system or component involved, and the existence of a fire or rollover, shall be identified and coded as specified in § 579.21(b)(2) of this part.

(2) For medium-heavy vehicles and buses, the system or component involved, and the existence of a fire or rollover, shall be identified and coded as specified in § 579.22(b)(2) of this part.

(3) For motorcycles, the system or component involved, and the existence of a fire, shall be identified and coded as specified in § 579.23(b)(2) of this part.

(4) For trailers, the system or component involved, and the existence of a fire, shall be identified and coded as specified in § 579.24(b)(2) of this part.

(5) For original and replacement equipment, a written identification of each component of the equipment that was allegedly involved, and whether there was a fire, in the manufacturer's own words.

§ 579.28 Due date of reports and other miscellaneous provisions.

(a) *Initial submission of reports.* The first calendar quarter for which reports are required under §§ 579.21 through 579.27 of this part is the second calendar quarter of 2003.

(b) *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. Notwithstanding the prior sentence, the due date for reports covering all calendar quarters in 2003 shall be 60 days after the last day of the reporting period.

(c) *One-time reporting of historical information.* No later than September 30, 2003, each manufacturer covered by §§ 579.21 through 579.26 of this part shall file separate reports, providing information on the numbers of warranty claims or warranty adjustments and field reports that it received in each calendar quarter from April 1, 2000, to March 31, 2003, for vehicles manufactured in model years 1994 through 2003 (including any vehicle designated as a 2004 model), for child restraint systems manufactured on or after April 1, 1998, and for tires manufactured on or after April 1, 1998. Each report shall include production data, as specified in paragraph (a) of §§ 579.21 through 579.26 of this part and shall identify the alleged system or component covered by warranty claim, warranty adjustment, or field report, as specified in paragraph (c) of §§ 579.21 through 579.26 of this part.

(d) *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 or warranty adjustment, 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, complaint, warranty claim, warranty adjustment, or field 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 when the additional information is received. If a manufacturer receives a claim or notice involving death or injury in which the vehicle or equipment is not identified with minimal specificity and the matter is being handled by legal counsel retained by the manufacturer, the manufacturer shall attempt to obtain the missing minimal specificity information from such counsel.

(e) *Claims received by registered agents.* A claim received by any registered agent of a manufacturer under the laws of any State, or the agent that any manufacturer offering motor vehicles or motor vehicle equipment for import has designated pursuant to 49 U.S.C. 30164(a), shall be deemed received by the manufacturer.

(f) *Updating of information required in reports.* (1) Except as specified in this subsection, a manufacturer need not update its reports under this subpart.

(2) With respect to each report of an incident submitted under paragraph (b) of §§ 579.21 through 579.26 of this part:

(i) If a vehicle manufacturer is not aware of the VIN, or a tire manufacturer is not aware of the TIN, at the time the incident is initially reported, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the VIN or TIN is identified.

(ii) If a manufacturer indicated code 99 in its report because a system or component had not been identified in

the claim or notice that led to the report, and the manufacturer becomes aware during a subsequent calendar quarter that one or more of the specified systems or components allegedly contributed to the incident, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the involved specified system(s) or component(s) is (are) identified.

(iii) If one or more systems or components is identified in a manufacturer's report of an incident, the manufacturer need not submit an updated report to reflect additional systems or components allegedly involved in the incident that it becomes aware of in a subsequent reporting period.

(iv) If the report is of an incident involving an injury and an injured person dies after a manufacturer has reported the injury to NHTSA, the manufacturer need not submit an updated report to NHTSA reflecting that death.

(g) *When a report involving a death is not required.* A report on incident(s) involving one or more deaths occurring in a foreign country that is identified in claim(s) against a manufacturer of motor vehicles or motor vehicle equipment involving a vehicle or equipment that is identical or substantially similar to equipment that the manufacturer has offered for sale in the United States need not be furnished if the claim specifically alleges that the death was caused by a possible defect in a component other than one that is common to the vehicle or equipment that the manufacturer has offered for sale in the United States.

(h) *Reporting on behalf of other manufacturers.* Whenever a fabricating manufacturer or importer submits a report on behalf of one or more other manufacturers (including a brand name owner), as authorized under § 579.3(b) of this part, the submitting manufacturer must identify each such other manufacturer. Whenever a brand name owner submits a report on its own behalf, it must identify the fabricating manufacturer of each separate product on which it is reporting.

(i) *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.

(j) *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.

(k) *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.

(l) *Use of the plural.* As used in this part, the plural includes the singular and the singular includes the plural to bring within the scope of reporting that which might otherwise be construed to be without the scope.

§ 579.29 Manner of reporting.

(a) *Submission of reports.* (1) Except as provided in this paragraph, each report required under paragraphs (a) through (c) of §§ 579.21 through 579.26 of this part must be submitted to NHTSA's early warning data repository identified on NHTSA's Internet homepage (*www.nhtsa.dot.gov*). A manufacturer must use templates provided at the early warning website, also identified on NHTSA's homepage, for submitting reports. 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 to *odi.ewr@nhtsa.dot.gov,* using the same templates.

(2) Each report required under § 579.27 of this part may be submitted to NHTSA's early warning data repository as specified in paragraph (a)(1) of this section or by manually filling out an interactive form on NHTSA's early warning website.

(b) *Submission of documents.* A copy of each document required under paragraph (d) of §§ 579.21 through 579.26 of this part may be submitted in digital form using a graphic compression protocol, approved by NHTSA, to the NHTSA data repository, or as an attachment to an e-mail message, as specified in paragraph (a)(1) of this section. Any digital image provided by a manufacturer shall be not less than 200 or more than 300 dpi (dots per inch) resolution. Such documents may also be submitted in paper form.

(c) *Designation of manufacturer contacts.* Not later than 30 days prior to the date of its first quarterly submission, each manufacturer must provide the names, office telephone numbers, postal and street mailing addresses, and electronic mail addresses of two employees (one primary and one back-up) whom NHTSA may contact for resolving issues that may arise concerning the submission of information and documents required by this part.

(d) *Manufacturer reporting identification and password.* Not later than 30 days prior to the date of its first quarterly submission, each manufacturer must request a manufacturer identification number and a password.

(e) *Graphic compression protocol.* Not later than 30 days prior to the date of its first quarterly submission, each manufacturer which wishes to submit a copy of a document in digital form, as provided in paragraph (b) of this section, must obtain approval from NHTSA for the use of such protocol.

(f) Information and requests submitted under paragraphs (c), (d), and (e) of this section shall be provided in writing to the Director, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

Issued on: July 3, 2002.

Jeffrey W. Runge,

Administrator

[FR Doc. 02–17103 Filed 7–3–02; 4:21 pm]

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Federal Register

Wednesday,
July 10, 2002

Part IV

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7243–9]

RIN 2060–AH82

National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymers Production source category. These NESHAP require that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This rule reflects EPA's determination that the hazardous air pollutants (HAP) control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of maximum achievable control technology (MACT) and, thus, meets the requirements of section 112(d) of the Clean Air Act (CAA), except for equipment leaks at new sources, for the PVC and Copolymers Production source category. For equipment leaks, new sources must comply with the most current technology standards in the Generic MACT rule. By requiring compliance with the Vinyl Chloride NESHAP, the EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that likely would result in no additional HAP emissions reductions.

EFFECTIVE DATE: July 10, 2002.

ADDRESSES: Docket No. A–99–40 contains supporting information used in developing these MACT standards. All dockets are located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street SW, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing the NESHAP, contact Warren Johnson, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5124, *johnson.warren@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Comments

The NESHAP for this source category were proposed on December 8, 2000 (65 FR 76958). The comment letters received on the proposal are available in Docket No. A–99–40, along with a summary of the comment letters and EPA's responses to the comments. In response to the public comments, EPA adjusted the final NESHAP where appropriate.

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or final rules at *http://www.epa.gov/ttn/oarpg/t3pfpr.html.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities

Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of affected entities
Industry	325211	2821	Facilities that polymerize vinyl chloride monomer to produce polyvinyl chloride and/or copolymer products.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.211 of the rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 9, 2002. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final NESHAP may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

I. What Are the Environmental, Energy and Economic Impacts?
II. What Changes and Clarifications did we Make Since Proposal?
  A. Rule Applicability
  B. MACT Floor Determination
  C. Clarifications
III. How did we Respond to Significant comments?
  A. Rule Applicability
  B. MACT Floor Determination
  C. Recordkeeping and Reporting
IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act of 1995
I. Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

I. What Are the Environmental, Energy, and Economic Impacts?

The nationwide environmental and cost impacts for today's final rule are the same as for the proposed rule, which had no environmental, energy or economic impacts anticipated beyond the current requirements of 40 CFR part 61, subpart F, which are already in effect.

As a result of today's action, new sources in this source category must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for leak detection and repair (LDAR), which are the standards to which existing sources must comply. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more costly, and perhaps less costly, than 40 CFR part 61, subpart V. In addition, we do not anticipate the construction of any new sources within the next 5 years.

II. What Changes and Clarifications Did We Make Since Proposal?

A. Rule Applicability

In the final rule, we have added language to explicitly clarify that only facilities in vinyl chloride service are affected, and language that specifically excludes research and development (R&D) facilities from the applicability.

B. MACT Floor Determination

After considering comments and collecting additional information, we have concluded that the floor determination we made at proposal is the most appropriate basis for MACT for this source category.

In reiterating our floor determination, we took into consideration that some plants are capable of stripping the residual vinyl chloride monomer (RVCM) from their resins to a greater degree than others. We also took into account that some State permits require lower quarterly and annual average RVCM limits based upon the resins being produced. We attributed the RVCM stripping rates as a function of the resin design specifications and properties rather than the performance of stripping technology.

In order to respond to comments that we had not determined a stringent enough floor for RVCM, we collected additional information, specifically to try to consider other ways to determine the floor. Traditionally in MACT standards, control performance is measured as a fixed removal or destruction efficiency associated with the specific technology applied. The most stringent control performance often translates easily to a floor level of control when it exists at five or more facilities. We knew this was not the case with applying stripping technology to reduce RVCM, but wanted to better understand the correlation between the stripping efficiencies and the resins being produced to see if there was a way to come up with a daily RVCM limit based on actual performance rather than using the part 61 NESHAP as the basis for the floor.

We began by trying to base best stripper performance on the lowest RVCM daily average numbers, but found that the lowest numbers (generally less than 10 parts per million (ppm)) are specifically tied to the producers of primarily suspension pipe grade resins. Although these facilities also produce smaller quantities of other PVC resins, they are able to keep their low daily averages because their output is generally greater than 80 percent pipe grade resins. At the other end of the spectrum, facilities producing primarily copolymer resins or blending resins, while using identical stripping technology, would not physically be able to meet these RVCM numbers. We believe that most of the industry, particularly the smaller specialty resin manufacturing facilities, would be adversely affected commercially because they would not be able to produce all the products they do now if we were to set limits that were based solely on the achievable RVCM in pipe grade resins. In particular, some copolymer, specialty and blending resins could get eliminated from the market place.

We then considered segregating the facilities by resins type and identifying the best performers within each group of facilities. However, there is variation in the resin characteristics within each resin type, and just about all of the 28 facilities produce a wide array of resins which change to meet market demands for particular resin characteristics. More specifically, we considered segregating the sources based upon the resins each source produced. While each source seemed to specialize in the production of particular resin types, it was uncommon for any source to produce one type of resin exclusively during the course of any calendar quarter. While our focus was on the prominent RVCM differences between suspension and dispersion resins, some of the other resin types we considered in this segregation of sources included low fusion suspension resins, blending resins, micro suspension resins, emulsion resins, and copolymer resins. We found that, even after segregating the sources by primary resin type produced, the desired resin characteristics still have a greater influence on the RVCM than the stripper technology.

We also considered adding quarterly limits in addition to the daily RVCM limits of the part 61 NESHAP because the commenters suggested that sources were achieving quarterly limits more stringent than the daily limits in the part 61 NESHAP. In order to do this, we took into account those copolymer and blending resins most difficult to strip. The resulting quarterly averages were around 1,500 ppm for dispersion resins other than latex and around 250 ppm for all other resins. But, by requiring these as quarterly limits, we in essence would simply require that facilities continue to operate as they do now, under the part 61 NESHAP, and in adding a quarterly limit, we create another reporting and recordkeeping burden with no commensurate HAP emissions reductions. In addition, since we did not have information on every facility in the category, we also ran the risk of inadvertently eliminating the production of some resins by setting too restrictive a quarterly limit.

What we found in the additional information collected since proposal reinforced our conclusion that since wide variations can occur even in normal operations, the operators at these facilities must maintain a conservative operation, keeping the RVCM as low as possible without sheering the product resin by overly stripping in order to comply with the existing NESHAP. This is MACT for this source cateogry, and it is the performance level necessary to control RVCM to a maximum degree while also keeping enough flexibility in the rule to allow for the production of the wide range of resins being manufactured at these facilities.

The most recent data show that, even among facilities with the lowest RVCM

numbers, facilities still have episodes of nearly 400 ppm as a daily average at normal operations. The part 61 NESHAP have daily not to exceed limits for RVCM of 400 ppm (2,000 ppm for dispersion, non-latex resins). From this, we conclude that the part 61 NESHAP still best represent the MACT floor for this source category.

We also reconsidered other HAP besides vinyl chloride monomer (VCM) in the process, but have not found a floor for control that exists beyond the part 61 NESHAP. Currently, all HAP in this source category exist as feed stock to the polymerization process or solvents used for cleaning process equipment. Outside of the RVCM limits in the product and equipment leak definition, the driving factor in this source category for level of HAP control nationwide is the part 61 NESHAP limit on VCM. This limit requires that VCM emissions must be less than 10 ppm before equipment can be opened or the process can be vented to the atmosphere. The process equipment centers around a reactor where the VCM is polymerized. This reactor and associated equipment remain closed, unless there is a reason to open them, and unspent VCM feed stock is either recovered and returned to the process or incinerated following the batch process. Likewise, other HAP present in the reactor either remain in the product after stripping or get stripped out and are either sent back to the process or incinerated. The floor level of control currently applied is driven by the presence of VCM, so by using VCM as a surrogate for all HAP from the reactor, we are controlling at the existing MACT floor.

Arguably, there are outside activities which may introduce HAP mechanically to the PVC and copolymer resins following their manufacture in the reactor and before they leave the plant location. We consider these later material introductions or milling to be outside the source category description provided in the 1992 source category document to support the listing notice. The PVC and copolymer reactor process is a chemical manufacturing process in which the PVC and copolymer resins are created chemically from feed stocks. This is distinctly different than the mechanical mixing or milling of these resins with other materials, which sometimes follows PVC and copolymer manufacturing processes at a facility. We simply considered these follow-on operations to be outside the scope of PVC and copolymer manufacturing process equipment since they are separate mechanical operations that follow the chemical reaction, recovery and emissions control steps of the resin manufacturing process. This is also consistent with the part 61 NESHAP which makes this distinction by defining applicable process equipment as being in vinyl chloride service.

Regarding the standards for equipment leaks, however, we agree with commenters' observations that ''HON-like'' requirements are practiced by one newly constructed source. Those requirements represent the most technologically advanced LDAR for this category. And, while this does not pose a floor for existing sources, we believe this does reflect MACT for new sources. We believe that new sources should be constructed with the latest technology in mind, and that these requirements would pose no new burdens, since, while the ''HON-like'' requirements are more comprehensive, they are also more flexible in allowing monitoring to be relaxed where not warranted. For this reason, we also see the ''HON-like'' LDAR requirements as a fitting alternative for existing sources, if they elect to use them. Hence, we have added language to the final rule that requires new sources to comply with the LDAR requirements in 40 CFR part 63, subpart UU, National Emission Standards for Equipment Leaks—Control Level 2 Standards, and allows existing sources to use these requirements as an alternative to the requirements in 40 CFR part 61, subpart V, Nation Emission Standard for Equipment Leaks (Fugitive Emission Sources). New sources that meet, or existing sources opting to meet, all the requirements of 40 CFR part 63, subpart UU, to comply with MACT are henceforth not required to meet any of the requirements in 40 CFR part 61, subpart V, since both of these subparts address the same emissions types and complying with both sets of requirements would be redundant. For consistency, the compliance schedule set forth in 40 CFR part 61, subpart F, will continue to apply for new and existing sources as the referencing subpart, regardless of whether a source is meeting the requirements of 40 CFR part 61, subpart V, or part 63, subpart UU, to comply with MACT LDAR.

C. Clarifications

After considering comments on using a table to specify which of the general provisions apply, we decided to keep the general provisions paragraphs unchanged from what was proposed. As written, these paragraphs make up only a few lines of rule text. And, although a table might make this rule appear more consistent with other MACT rules, a table here could add complexity to what is now very simple text.

Commenters also expressed concerns over massive re-certification requirements or duplication of reports and records for sources already complying with the part 61 NESHAP that might be implied by the promulgation of the part 63 NESHAP unless otherwise clarified. Although we added no new language to the rule to clarify this, we want to clarify that the part 63 NESHAP do not require sources that are already in compliance with the part 61 NESHAP to re-certify their compliance status or create duplicate records or reports to demonstrate compliance with the part 63 NESHAP.

III. How Did We Respond to Significant Comments?

This section presents a summary of our responses to significant public comments received on the proposed rule. A comprehensive summary of public comments and responses can be found in the document entitled ''Public Comments and EPA Responses to the Proposed NESHAP for Polyvinyl Chloride and Copolymers Production'' (Docket No. A–99–40).

A. Rule Applicability

Comment: One commenter requested that we consider adding a provision to exclude facilities from the applicability that manufacture polyvinyl chloride and related copolymers for R&D purposes only.

Response: Although we believe that we sufficiently addressed this in 40 CFR 63.212(c) of the proposal by referencing the exclusion for R&D facilities in 40 CFR 61.60(b), we agree that a simpler exclusion in the final rule would be more clear and consistent with other MACT standards. So, we have added this exclusion language in the rule in the place of the former reference to 40 CFR 61.60(b).

Comment: Several commenters asked that we define the intended scope of the source definition, specifically as to whether the rule would affect activities and equipment that were not in vinyl chloride service as defined in 40 CFR 61.61(l). These commenters requested that we specifically state in the rule that the source includes all activities and equipment in vinyl chloride service, to be consistent with the part 61 NESHAP, if that is what we intended.

Response: Although we believe that we sufficiently addressed this by making a broad reference to the definitions in the part 61 NESHAP, we agree that a more specific phrase in the definition of source would be helpful. So, we have added language to the source definition in 40 CFR 63.212(b) to clarify that the affected activities and

equipment are those that are in vinyl chloride service.

B. MACT Floor Determination

Comment: Many comments we received endorsed the proposed MACT floor determination and resulting levels of stringency. However, two commenters challenged our floor approach and questioned whether we considered all available data. These two commenters specifically pointed to lower quarterly RVCM averages consistently achieved by some facilities, the use of ''HON-like'' LDAR at one newly constructed facility, and challenged our not identifying a best-performing five facilities in the category on which to base MACT.

Response: We actually had considered much of these data and the lower RVCM numbers at proposal, and for the same reasons we set out in the proposal, we believe that the proposed determination is sound. We did, however, gather additional information to further study the relationships between the RVCM numbers and stripper performance across the industry. In responding to comments, our general approach was to see if additional information could support a decision to either lower the existing daily RVCM limits, or enhance these limits with additional quarterly limits as a way to effectively reduce HAP emissions. We reviewed a sampling of compliance reports which sources had submitted to State authorities in Delaware, Louisiana and Texas between May 1998 and February 2001 which portrayed the general description of the resins being produced with both the daily and quarterly RVCM performance of each facility. We also studied further the effects of resin characteristics on stripping technology performance.

We found that the stripping of RVCM from the product is most tied to the characteristics of the product being manufactured, more specifically the size, porosity, hardness and stability of the product particles. Smaller, less porous, and harder or less stable particles are more difficult to strip than larger and more porous particles, making each grade of resin somewhat unique in stripping capabilities. This makes the stringency less dependent upon the stripping technology and more dependent on product and process knowledge. As we looked closer into the relative performance of stripping different resin grades, we found that the facilities were consistently stripping the respective resins to the best of their abilities. Specifically, we found that the manufacturers of primarily suspension pipe grade resins consistently had lower quarterly RVCM numbers, around 10 ppm or lower, because these resins are the easiest to strip, being comprised of larger size, more porous and stable particles. Conversely, the manufacturers of primarily copolymer and blend resins consistently had higher quarterly numbers, around 250 ppm and lower, since these resins do not strip out of the resin characteristics as easily. With this knowledge, we considered introducing quarterly average limits (in addition to the daily RVCM limits required by the existing NESHAP) based upon the type of resin being manufactured at a particular facility, but decided that this is not realistic for two reasons. First, even the facilities which primarily produce the suspension pipe grade occasionally produce other resins. And, since these RVCM limits would be averaged across the facility, setting these quarterly limits could directly impact their ability to produce certain grades of resin and still comply with the MACT standards. Second, based on what we found in the existing quarterly reports, we realized that to codify best stripping performance as a step function of each resin type's design characteristics would simply mirror the level of performance that the industry is already achieving under the part 61 NESHAP. In practice, this codification would require additional reporting and recordkeeping with no commensurate reduction in HAP emissions.

As for identifying the best-performing five facilities, the commenters related performance of the strippers directly to low quarterly RVCM numbers. If you only consider the data from one or two States, low RVCM numbers may appear to be a direct performance indicator due to a narrower representation of resin manufacturing. But, we considered the industry as a whole, on a national scale, taking into account resins that are not manufactured in all States and recognizing that the same technology was being applied across the category. Arguably, since performance is relative to resin characteristics, some of the better performers might actually be manufacturers of resins that are more difficult to strip, even though their RVCM daily averages are higher than others. From what we could determine from the data available, the manufacturers of those resins are applying the technology to the maximum degree for each of the respective resins that they produce in order to avoid compliance violations under the part 61 NESHAP. The resulting variability in RVCM numbers averaged daily is a function of the resin characteristics and not a reasonable measure of stripper performance, unless you are only making one type of resin. Each of the facilities we reviewed produces multiple types of resins, each with unique characteristics and all employ stripper technology.

In regard to the standards for LDAR, however, we agree with the commenters' observations that ''HON-like'' requirements are practiced by one newly constructed source, and that these requirements represent the most technologically advanced LDAR for this category. We believe this reflects MACT for new sources and believe that new sources should be constructed with the latest technology in mind. We also see the ''HON-like'' LDAR requirements as a fitting alternative for existing sources, if they elect to use it.

Comment: Two commenters contended that we overlooked the control of some HAP related to PVC and copolymers production in the proposal.

Response: Although we considered other HAP besides VCM at proposal, we gathered more information to see if there were HAP in the process that were better controlled than what the part 61 NESHAP required. This also raised a clarity question about what was included in the process, similar to the comments we received asking us to clarify whether or not we intended to only include activities and equipment in vinyl chloride service. For activities and equipment that are in vinyl chloride service, we reconsidered the HAP in the process. We concluded that there were no more stringent control requirements than those of the part 61 NESHAP. We considered HAP that are introduced by activities and equipment that were not in vinyl chloride service to be outside the scope of the PVC and copolymers source category, consistent with the way we have distinguished between process units in other MACT standards and consistent with the part 61 NESHAP.

C. Recordkeeping and Reporting

Comment: While commenters generally agreed with us that the compliance date for existing sources could become immediately effective upon publication, if having the same requirements as the part 61 NESHAP, several commenters expressed concern over whether publication of the part 63 rule would trigger new testing and re-certification requirements, and duplication of records and reports in absence of other guidance. Their comments also expressed concern over the need for additional lead time if such testing, re-certification and reports and records would be necessary for demonstrating compliance.

Response: It is not our intent to create new testing, re-certification, reports and recordkeeping burdens for sources that have already demonstrated sustained compliance with the part 61 NESHAP. Although we have not added specific language to the part 63 rule in this regard, we expect that any documentation necessary for demonstrating compliance with the part 61 NESHAP would be satisfactory for demonstrating compliance with the part 63 rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the NESHAP. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the NESHAP.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

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, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. 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 9, 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 final rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other

than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. There are no cost burdens introduced by today's rule. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Pursuant to the provisions of 5 U.S.C. 605(b), we have determined that the final rule will not have a significant economic impact on a substantial number of small entities. We have determined, following discussions with State and industry representatives, that the scope of today's rule includes no small entities as defined above. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 61, subpart F (Vinyl Chloride NESHAP) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0071. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 186.08), and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. You may also download a copy off the Internet at *http://www.epa.gov/icr.*

Today's NESHAP (*i.e.,* 40 CFR part 63, subpart J) require that PVC and copolymers production facilities continue to comply with 40 CFR part 61, subpart F. In addition, new sources must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for LDAR. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more burdensome, and perhaps less burdensome, than 40 CFR part 61, subpart V, which are the standards to which the existing sources must currently comply. Therefore, today's NESHAP add no additional information collection burden. Consequently, no ICR has been prepared for today's NESHAP.

H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, 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), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Since this final rule does not include any new technical standards requirements, EPA is not adopting any voluntary consensus standards in this action.

Under § 63.7(f) of 40 CFR part 63 subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods in place of any existing EPA testing method requirements.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the SBREFA, 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. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States, prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2) and, therefore, will be effective on July 10, 2002.

J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 3, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of

the Code of the Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart J to read as follows:

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

Sec.
63.210 What is the purpose of this subpart?
63.211 Am I subject to this subpart?
63.212 What parts of my facility does this subpart cover?
63.213 When do I have to comply with this subpart?

Standards and Compliance Requirements

63.214 What are the requirements I must comply with?

Other Requirements and Information

63.215 What General Provisions apply to me?
63.216 Who administers this subpart?
63.217 What definitions apply to this subpart?

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

§ 63.210 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for polyvinyl chloride (PVC) and copolymers production.

§ 63.211 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a PVC plant, as defined in 40 CFR 61.61(c) of this chapter, that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) You are a major source of HAP emissions if you own or operate a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

§ 63.212 What parts of my facility does this subpart cover?

(a) This subpart applies to each new or existing affected source at PVC and copolymers production operations.

(b) The affected source subject to this subpart is the collection of all equipment and activities in vinyl chloride service necessary to produce PVC and copolymers. This subpart applies to the PVC and copolymers production operations that meet the applicability criteria at 40 CFR 61.60(a)(3) of this chapter.

(c) An affected source is a new affected source if you commenced construction or reconstruction of the affected source after July 10, 2002.

(d) An affected source is existing if it is not new.

(e) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act.

§ 63.213 When do I have to comply with this subpart?

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before July 10, 2002, then you must comply with the standards in this subpart no later than July 10, 2002.

(2) If you startup your affected source after July 10, 2002, then you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must be in compliance with the standards in this subpart by July 10, 2002.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source as specified at § 63.212(d) must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source as specified at § 63.212(e) must be in compliance with this subpart upon becoming a major source.

Standards and Compliance Requirements

§ 63.214 What are the requirements I must comply with?

(a) You must meet all the requirements in 40 CFR part 61, subpart F of this chapter, as they pertain to processes that manufacture polymerized vinyl chloride, except as specified in paragraphs (a)(1) and (2) of this section. These requirements include the emission standards and compliance, testing, monitoring, notification, recordkeeping, and reporting requirements.

(1) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, a new source must comply with the provisions of 40 CFR part 63, subpart UU, instead of the provisions of 40 CFR part 61, subpart V.

(2) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, an existing source must comply with either the provisions of 40 CFR part 63, subpart UU, or the provisions of 40 CFR part 61, subpart V.

(b) Sources that comply with all of the provisions of 40 CFR part 63, subpart UU, are not required to meet any of the provisions of 40 CFR part 61, subpart V.

Other Requirements and Information

§ 63.215 What General Provisions apply to me?

(a) All the provisions in 40 CFR part 61, subpart A of this chapter, apply to this subpart.

(b) The provisions in subpart A of this part also apply to this subpart as specified in (b)(1) through (3) of this section.

(1) The general applicability provisions in § 63.1(a)(1) through (8) and (13) through (14).

(2) The specific applicability provisions in § 63.1(b) through (e) except for the reference to § 63.10 for recordkeeping procedures.

(3) The construction and reconstruction provisions in § 63.5 except for the references to § 63.6 for compliance procedures and the references to § 63.9 for notification procedures.

§ 63.216 Who administers this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the primary authority to administer and enforce this subpart. You should contact your EPA Regional Office to find out if the authority to implement and enforce this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the Administrator of EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the non-opacity emissions standards in §§ 63.211, 63.212 and 63.214 under 40 CFR 61.12(d) of this chapter. Where these standards reference another subpart, the cited provisions will be

delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major alternatives to test methods under 40 CFR 61.13(h) of this chapter and as defined in § 63.90.

(4) Approval of major alternatives to monitoring under 40 CFR 61.14(g) of this chapter and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under 40 CFR 61.10 of this chapter and as defined in § 63.90.

§ 63.217 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act; 40 CFR 61.02 of this chapter, the NESHAP General Provisions; 40 CFR 61.61 of this chapter, the Vinyl Chloride NESHAP; and, § 63.2, in regard to terms used in §§ 63.1 and 63.5.

[FR Doc. 02–17361 Filed 7–9–02; 8:45 am]

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