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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM267; Special Conditions No. 25–251–SC]

Special Conditions: Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy); Single-Occupant Side-Facing Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy) airplane. This airplane as modified by Gulfstream Aerospace Corporation will have novel or unusual design features associated with single-occupant side-facing seats. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. 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 October 9, 2003. Comments must be received on or before November 17, 2003.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM267, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM267. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Michael Thompson, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1157; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment are impracticable because these procedures would significantly delay issuance of the design approval. In addition, the substance of these special conditions has been subject to the public comment process with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NMxxx.'' The postcard will be date stamped and returned to you.

Background

On May 30, 2003, Gulfstream Aerospace Corporation, 7440 Aviation Place, Dallas, Texas, 75235, applied for a supplemental type certificate for installation of single-occupant side-facing seats on Gulfstream 200 (Galaxy) airplanes. Gulfstream requested special conditions for these seats and that the special conditions be listed on the supplemental type certificate. The Gulfstream 200 (Galaxy) airplane is a twin engine, turbofan powered, transport category airplane, which is currently the subject of a type certification program.

Section 25.785(b) requires that ''each seat * * * at each station designated as occupiable during takeoff and landing must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertia forces specified in §§ 25.561 and 25.562.'' Additionally, § 25.562 requires dynamic testing of all seats that are occupied during takeoff and landing. However, side-facing seats are considered a novel design for transport category airplanes that include Amendment 25–64 in the certification basis and were not considered when those airworthiness standards were promulgated. Hence, the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. In order to provide a level of safety that is equivalent to that afforded occupants of forward and aft facing seats, additional airworthiness standards in the form of special conditions are necessary.

These special conditions are applicable only to single-occupant side-facing seats. They are not sufficient or intended to be used for the certification of multiple-occupant side-facing divans or sofas.

Type Certification Basis

Under the provisions of § 21.101, Gulfstream Aerospace Corporation must show that the Gulfstream Model 200 (Galaxy) airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A53NM 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 No. A53NM are as follows: 14 CFR part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–82.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards

for the Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy) 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, the Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy) must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR 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.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply 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, the special conditions would also apply to the other model.

Novel or Unusual Design Features

Gulfstream Aerospace Corporation will install single-occupant, side-facing seats on Gulfstream 200 (Galaxy) airplanes. Section 25.785(b) requires that ''each seat * * * at each station designated as occupiable during takeoff and landing must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertia forces specified in §§ 25.561 and 25.562.'' Additionally, § 25.562 requires dynamic testing of all seats that are occupied during takeoff and landing. However, side-facing seats are considered a novel design for transport category airplanes that include Amendment 25–64 in the certification basis, and were not considered when those airworthiness standards were promulgated. Hence, the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. In order to provide a level of safety that is equivalent to that afforded occupants of forward and aft facing seats, additional airworthiness standards, in the form of special conditions, are necessary.

Discussion

The following special conditions are considered to provide occupants of single-occupancy side-facing seats a level of safety that is equivalent to that afforded occupants of forward and aft facing seats. These special conditions supplement 14 CFR part 25 and, more specifically, they supplement §§ 25.785 and 25.562.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy) modified by Gulfstream Aerospace Corporation. Should Gulfstream Aerospace Corporation apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A53NM to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and 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 type certification basis for Gulfstream Aerospace Corporation Model Gulfstream 200 (Galaxy) airplanes. In addition to the airworthiness standards of §§ 25.562 and 25.785, the minimum acceptable standards for dynamic certification of Model Gulfstream 200 (Galaxy) single-occupant side-facing seats are as follows:

Injury Criteria

(a) *Existing Criteria:* All injury protection criteria of § 25.562(c)(1) through (c)(6) apply to the occupant of a side-facing seat. Head Injury Criterion (HIC) assessments are required only for head contact with the seat and/or adjacent structures.

(b) *Body-to-Wall/Furnishing Contact:* The seat must be installed aft of a structure, such as an interior wall or furnishing, that will support the pelvis, upper arm, chest, and head of an occupant seated next to the structure. A conservative representation of the structure and its stiffness must be included in the tests. It is recommended, but not required, that the contact surface of this structure be covered with at least two inches of energy absorbing protective padding (foam or equivalent), such as Ensolite.

(c) *Thoracic Trauma:* The Thoracic Trauma Index (TTI) injury criterion must be substantiated by dynamic test or by rational analysis, based on a previous test or tests of a similar seat installation. Testing must be conducted with a Side Impact Dummy (SID), as defined by 49 CFR Part 572, Subpart F, or its equivalent. TTI must be less than 85, as defined in 49 CFR Part 572, Subpart F. TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) Part 571.214, section S6.13.5.

(d) *Pelvis:* Pelvic lateral acceleration must be shown by dynamic test or by rational analysis based on previous test(s) of a similar seat installation to not exceed 130g. Pelvic acceleration data must be processed as defined in FMVSS Part 571.214, section S6.13.5.

(e) *Shoulder Strap Loads:* Where upper torso straps (shoulder straps) are used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads must not exceed 2,000 pounds.

Test Requirements

The above performance measures must not be exceeded during the following dynamic tests:

(a) Conduct a longitudinal test per § 25.562(b)(2) with a SID, undeformed floor, no yaw, and with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: TTI and pelvic acceleration.

(b) Conduct a longitudinal test per § 25.562(b)(2) with the Hybrid II ATD, deformed floor, 10 degrees yaw, and

with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: HIC, upper torso restraint load, restraint system retention and pelvic acceleration.

(c) Conduct a downward vertical test per § 25.562(b)(1) with a modified Hybrid II ATD with existing pass/fail criteria.

Issued in Renton, Washington, on October 9, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–26310 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–41–AD; Amendment 39–13339; AD 2003–21–04]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 208 and 208B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 208 and 208B airplanes. This AD requires you to inspect the right inboard forward flap bell crank for cracks, deformation, and missing/incomplete welds. If cracks, deformation, or missing/incomplete welds are found, the AD would require you to immediately replace the flap bell crank or temporarily incorporate certain flap limitations. This AD is the result of reports of cracks and missing/incomplete welds in the right inboard forward flap bell crank. We are issuing this AD to prevent failure of the right inboard forward flap bell crank due to cracks, deformation, or missing/incomplete welds. Such failure could lead to damage to the flap system and surrounding structure and result in reduced or loss of control of the airplane.

DATES: This AD becomes effective on October 21, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of October 21, 2003.

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

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

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–41–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329–3771.
- *By e-mail: 9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2003–CE–41–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this AD from Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may also view this information at the Rules Docket at the address above.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–41–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Nguyen, Aerospace Engineer, FAA, Wichita Aircraft Certification Office ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4125; facsimile: 816–946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA has received reports that the right inboard forward flap bell crank on Cessna Models 208 and 208B airplanes could have missing/incomplete welds. Without complete welds, the flap bell cranks may not have sufficient strength or fatigue endurance to carry critical load with the use of flaps. This could result in cracking or deformation of the flap bell crank and lead to failure of the flap system.

What are the consequences if the condition is not corrected? Failure of the flap system, if not prevented, could lead to damage to the flap system and surrounding structure and result in reduced or loss of control of the airplane.

Is there service information that applies to this subject? Cessna issued Caravan Service Bulletin CAB03–11, Revision 1, dated September 24, 2003.

What are the provisions of this service information? The service bulletin includes procedures for inspecting all the flap system flap bell cranks for cracks, deformation, and missing/incomplete welds. If cracks, deformation, or missing/incomplete welds are found, this service bulletin specifies either:

—Replacing the subject flap bell crank; or

—Incorporating Temporary Revision 208PHTR02, dated September 23, 2003, to the Other Limitations section of the Pilot's Operating Handbook (POH). This is a temporary option and replacing the subject flap bell crank is mandatory within a certain time frame.

FAA's Determination and Requirements of the AD

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

Since the unsafe condition described previously is likely to exist or develop on other Cessna Models 208 and 208B airplanes of the same type design, this AD is being issued to prevent failure of the right inboard forward flap bell crank due to cracks, deformation, or missing/incomplete welds.

What does this AD require? This AD requires you to inspect the right inboard forward flap bell crank for cracks, deformation, and missing/incomplete welds. If cracks, deformation, or missing/incomplete welds are found, the AD would require you to immediately replace the flap bell crank or temporarily incorporate certain flap limitations.

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

Are there differences between the service information and this AD? Yes. The service information requires an inspection on all flap bell cranks within the flap system. However, this AD only addresses the right inboard forward flap bell crank.

To date, FAA has only received reports on the right inboard forward flap bell cranks, and we are addressing this issue through a final rule; request for comments (immediately adopted rule) AD action. After issuing this AD, we will evaluate the condition of the entire flap system and determine whether additional action is necessary.

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Comments Invited

Will I have the opportunity to comment prior to the issuance of the rule? This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–41–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

Regulatory Findings

Will this AD impact various entities? We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–41–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–21–04 Cessna Aircraft Company: Amendment 39–13339; Docket No. 2003–CE–41–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on October 21, 2003.

Are Any Other ADs Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial No.
208	20800001 through 20800369.
208B ...	208B0001 through 208B1014, 208B1017, 208B1018, 208B1020 through 208B1024, 208B1026, and 208B1029 through 208B1033.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports of cracks and missing/incomplete welds in the right inboard forward flap bell crank. We are issuing this AD to prevent failure of the right inboard forward flap bell crank due to cracks, deformation, or missing/incomplete welds. Such failure could lead to damage to the flap system and surrounding structure and result in reduced or loss of control of the airplane.

What Must I Do To Address This Problem?

(e) To address this problem, you must accomplish the following, unless already accomplished (compliance with Cessna Caravan Service Bulletin CAB03–11, Revision 1, dated September 24, 2003):

Actions	Compliance	Procedures
(1) Inspect the right inboard forward flap bell crank assembly for cracks, deformation, and missing/incomplete welds. The affected flap bell crank incorporates one of the following part numbers (P/N): (i) P/N 2622083–18; (ii) P/N 2622281–2; (iii) P/N 2692001–2; or (iv) P/N 2622281–12.	Within the next 25 landings after October 21, 2003 (the effective date of this AD). If landings are unknown, then you may multiply hours time-in-service (TIS) by 1.25. For the purposes of this AD, you may substitute 20 hours TIS for 25 landings.	Use a flashlight and a mirror as necessary to see if welds (1), (4), (5), and (6) exist and are at least 0.06-inch thick around the full circumference of the shaft. These welds and the inspection procedures are referenced in Figure 1, details A, B, and C; and Views A–A and B–B of Cessna Caravan Service Bulletin CAB03–11, Revision 1, dated September 24, 2003.

Actions	Compliance	Procedures
(2) If you find cracks, deformation, or missing/incomplete welds during the inspection required by paragraph (e)(1) of this AD, then accomplish one of the following: (i) Replace the flap bell crank with a P/N 2622311–7 flap bell crank; or (ii) Prohibit the use of flaps through the actions of paragraph (f) of this AD.	Replace or do the flap prohibition actions prior to further flight after the inspection required in paragraph (e)(1) of this AD. If you choose the flap prohibition, you must have the replacement done within 200 hours TIS after the inspection required by paragraph (e)(1) of this AD. After the new flap bell crank (2622311–7) is installed, the Temporary Revision 208PHTR02, dated September 23, 2003, should be removed.	*Replacement:* Use the Accomplishment Instructions of Cessna Caravan Service Bulletin No.: CAB02–12, Revision 1, dated January 27, 2003, and the Accomplishment Instructions of Cessna Caravan Service Kit No.: SK208–148A, dated January 27, 2003. *Flap Prohibition:* Use the information in the Temporary Revision 208PHTR02, dated September 23, 2003. The action is referenced in Cessna Caravan Service Bulletin CAB03–11, Revision 1, dated September 24, 2003.

What Are the Actions I Must Do if I Choose the Flap Prohibition Option?

(f) Insert Temporary Revision, 208PHTR02, dated September 23, 2003, into the applicable pilot's operating handbook and FAA-approved airplane flight manual. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may incorporate this information into the AFM. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(1) This procedure applies to Cessna Models 208 and 208B landplanes. For other FAA-approved aircraft configurations (*e.g.*, amphibian, floatplanes, *etc.*), you must operate with flaps up per the appropriate airplane flight manual supplement.

(2) This procedure allows for applicable deviation from the Master Minimum Equipment List (MMEL) for these airplanes until the flap bell crank is replaced. The applicable MMEL requirements go back into effect at the time of flap bell crank replacement.

Are There Differences Between the Service Information and This AD?

(g) Yes. The service information requires an inspection on all flap bell cranks within the flap system. However, this AD only addresses the right inboard forward flap bell crank. To date, FAA has only received reports on the right inboard forward flap bell cranks, and we are addressing this issue through a final rule; request for comments (immediately adopted rule) AD action. After issuing this AD, we will evaluate the condition of the entire flap system and determine whether additional action is necessary.

What About Alternative Methods of Compliance?

(h) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.13. Send your request to the Manager, Wichita Aircraft Certification Office (ACO). For information on any already approved alternative methods of compliance, contact Paul Nguyen, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4125; facsimile: 816–946–4107.

Is There Material Incorporated by Reference?

(i) You must do the actions required by this AD per Cessna Caravan Service Bulletin CAB03–11, Revision 1, dated September 24, 2003; Cessna Caravan Service Bulletin No.: CAB02–12, Revision 1, dated January 27, 2003; and Cessna Caravan Service Kit No.: SK208–148A, dated January 27, 2003 (Original issue: October 21, 2002). The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get a copy from Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may review copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Issued in Kansas City, Missouri, on October 8, 2003.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–26115 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–57–AD; Amendment 39–13340; AD 2003–21–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 airplanes, that currently requires a one-time detailed visual inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires; and corrective action, if necessary. This amendment requires a new inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires; repair if necessary; installation of a grommet around the lower edge of the feed-through; replacement of the support bracket with a new bracket; and relocation of the support clamp of the wire bundle; as applicable. The actions specified by this AD are intended to prevent the wire bundle contained in the feed-through from contacting the bottom of the feed-through, which could cause cable chafing, electrical arcing, and smoke or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective November 21, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 21, 2003.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) by superseding AD 2000–03–13, amendment 39–11572 (65 FR 8028, February 17, 2000), which is applicable to certain McDonnell Douglas Model MD–11 airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on July 24, 2003 (68 FR 43686). The action proposed to require a new inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires; repair if necessary; installation of a grommet around the lower edge of the feed-through; replacement of the support bracket with a new bracket; and relocation of the support clamp of the wire bundle; as applicable. The action also specified new corrective actions.

Comments

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

Conclusion

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

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 193 airplanes of the affected design in the worldwide fleet. The FAA estimates that 62 airplanes of U.S. registry will be affected by this AD.

The actions that are required by this AD will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts will cost approximately $407 per airplane. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $33,294, or $537 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The manufacturer may cover the cost of replacement parts associated with this AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this AD. As a result, the costs attributable to this AD may be less than stated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–11572 (65 FR 8028, February 17, 2000), and by adding a new airworthiness directive (AD), amendment 39–13340, to read as follows:

2003–21–05 McDonnell Douglas: Amendment 39–13340. Docket 2001–NM–57–AD. Supersedes AD 2000–03–13, Amendment 39–11572.

Applicability: Model MD–11 airplanes, as listed in Boeing Alert Service Bulletin MD11–24A041, Revision 03, dated September 11, 2002; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the wire bundle contained in the feed-through from contacting the bottom of the feed-through, which could cause cable chafing, electrical arcing, and smoke or fire in the cockpit, accomplish the following:

Inspection

(a) Within 1 year after the effective date of this AD, do a one-time detailed inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires, per Boeing Alert Service Bulletin MD11–24A041, Revision 03, dated September 11, 2002.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror,

magnifying lenses, *etc.,* may be used. Surface cleaning and elaborate access procedures may be required.''

Condition 1: No Damaged or Chafed Wire

(b) If no damaged or chafed wire is detected during the detailed inspection required by paragraph (a) of this AD, before further flight, revise the wire bundle support clamp installation, per Boeing Alert Service Bulletin MD11–24A041, Revision 03, dated September 11, 2002.

Condition 2: Any Damaged or Chafed Wire

(c) If any damaged or chafed wire is detected during the detailed inspection required by paragraph (a) of this AD, before further flight, repair wiring, and revise the wire bundle support clamp installation, per Boeing Alert Service Bulletin MD11–24A041, Revision 03, dated September 11, 2002.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

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

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–03–13, amendment 39–11572, are approved as alternative methods of compliance with this AD.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–24A041, Revision 03, dated September 11, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on November 21, 2003.

Issued in Renton, Washington, on October 9, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–26116 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–353–AD; Amendment 39–13341; AD 2003–21–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, –321, –322, –341, and –342 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes. This action requires modifying the rear fuselage to reinforce a certain frame segment. This action is necessary to prevent fatigue cracking of the rear fuselage, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 3, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 3, 2003.

Comments for inclusion in the Rules Docket must be received on or before November 17, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–353–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–353–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes. The DGAC advises that, during fatigue testing, after 57,457 simulated flights, a crack initiated and propagated in the rear fuselage on the right-hand side of the airplane in the web of frame 65 at stringer 27, at the first lower rivet row of the cross-beam attach fitting. Such cracking, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A330–53–3059, Revision 01, dated October 15, 1997. That service bulletin describes procedures for modifying the rear fuselage to reinforce frame 65 in the area of stringer 27 at the first lower rivet row of the cross-beam attach fitting. This modification includes performing rotating probe inspections for cracking of certain fastener holes, reaming certain fastener holes (either as a corrective action if cracking is found in certain areas, or as a follow-on action for uncracked fastener holes), cold-expanding certain fastener holes, replacing certain existing fasteners with improved fasteners, and applying sealant. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–496(B), dated October 17, 2001, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed

of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent fatigue cracking of the rear fuselage, which could result in reduced structural integrity of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This AD and Service Bulletin

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this AD requires operators to repair those conditions per a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that is required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this AD.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 3 work hours to accomplish the required actions, at an average labor rate of $65 per work hour. Required parts would cost approximately $120 per airplane. Based on these figures, the cost impact of this AD would be $315 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–353–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–21–06 Airbus: Amendment 39–13341. Docket 2001–NM–353–AD.

Applicability: Model A330–301, –321, –322, –341, and –342 airplanes; certificated in any category; except those on which Airbus Modification 43761, 44203, or 44052 has been accomplished in production.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the rear fuselage, which could result in reduced structural integrity of the airplane, accomplish the following:

Service Bulletin Reference

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

(1) The term ''service bulletin'' as used in this AD, means the Accomplishment Instructions of Airbus Service Bulletin A330–53–3059, Revision 01, dated October 15, 1997.

(2) Modifications accomplished before the effective date of this AD per Airbus Service Bulletin A330–53–3059, dated June 18, 1996, are acceptable for compliance with this AD.

Modification

(b) Prior to the accumulation of 20,000 total flight cycles, modify the rear fuselage to reinforce frame 65 in the area of stringer 27 at the first lower rivet row of the cross-beam attach fitting (including performing rotating probe inspections for cracking of certain fastener holes; accomplishing any applicable repair; and replacing certain fasteners with new, improved fasteners) by accomplishing all actions specified in paragraphs 2.A. through 2.D. of the service bulletin. Do the actions per the service bulletin, except as required by paragraph (c) of this AD. Any applicable repair must be accomplished prior to further flight.

Repairs

(c) If any crack is found during any inspection required by this AD, and the service bulletin recommends contacting Airbus for appropriate action: Before further flight, repair per a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Alternative Methods of Compliance

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

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Airbus Service Bulletin A330–53–3059, Revision 01, dated October 15, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directive 2001–496(B), dated October 17, 2001.

Effective Date

(f) This amendment becomes effective on November 3, 2003.

Issued in Renton, Washington, on October 9, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–26117 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15723; Airspace Docket No. 03–ACE–65]

Modification of Class E Airspace; Meade, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Meade, KS.

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C. DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 18, 2003 (68 FR 49346). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on October 3, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–26229 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15724; Airspace Docket No. 03–ACE–66]

Modification of Class E Airspace; Centerville, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Centerville, IA.

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 19, 2003 (68 FR 49691) and subsequently published a correction to the direct final rule in the **Federal Register** on August 29, 2003 (68 FR 52075). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on October 3, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–26228 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 111 and 310

[Docket Nos. 91P–0186 and 93P–0306]

Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose Packaging Requirements; Removal of Regulations for Unit-Dose Packaging Requirements for Dietary Supplements and Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; removal of regulatory provisions in response to court order.

SUMMARY: The Food and Drug Administration (FDA) is removing, in part, a final rule that required unit-dose packaging for iron-containing dietary supplement and drug products that contain 30 milligrams (mg) or more of iron per dosage unit. FDA is taking this action in response to the Court's ruling in *Nutritional Health Alliance* v. *FDA*, in which the Court concluded that the Federal Food, Drug, and Cosmetic Act (the act) does not provide FDA with authority to require manufacturers of iron-containing dietary supplement and drug products to use unit-dose packaging for poison prevention purposes. Today's action takes the ministerial step of removing the unit-dose packaging provisions from title 21 of the Code of Federal Regulations.

DATES: This rule is effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Robert J. Moore, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1441.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 15, 1997 (62 FR 2218), FDA published a final rule (1997 final rule) that, among other things, required unit-dose packaging[1] for iron-containing dietary supplement and drug products in solid oral dosage form that contain 30 mg or more of iron per dosage unit (§ 111.50 (21 CFR 111.50 (dietary supplements) and § 310.518(a) (21 CFR 310.518(a) (drugs)). These provisions were challenged by the Nutritional Health Alliance (NHA), an association including manufacturers and distributors of iron-containing dietary supplements, on the basis that FDA did not have authority under the act to issue and enforce regulations for the purpose of poison prevention. On November 1, 2000, the U.S. District Court for the Eastern District of New York upheld FDA's authority to issue the regulations under the act (*Nutritional Health Alliance* v. *FDA*, No. 97–CV–5042, 2000 U.S. Dist. LEXIS 22330 (E.D.N.Y. Nov. 1, 2000)). NHA appealed. On January 21, 2003, the U.S. Court of Appeals for the Second Circuit reversed the judgment of the District Court and remanded the case to the District Court to fashion an appropriate remedy. On May 9, 2003, the District Court signed a final judgment declaring the provisions of §§ 111.50 and 310.518(a) invalid and without legal force or effect (*Nutritional Health Alliance* v. *FDA*, No. 97–CV–5042 (E.D.N.Y. filed May 29, 2003).

II. Summary of the Final Rule

In accordance with the Court's ruling and the District Court's final judgment, FDA is removing those parts of the 1997 final rule that established regulations in §§ 111.50 and 310.518(a), which required unit-dose packaging for dietary supplement and drug products that contain 30 mg or more of iron per dosage unit. The agency is also revising § 310.518(b), which provided a temporary exemption from unit-dose packaging requirements for certain iron-containing drug products, and revising appropriate paragraphs in § 310.518 accordingly.

This rule does not affect the provisions of 21 CFR 101.17(e), which requires label warning statements on all iron-containing dietary supplements in solid oral dosage form, or the provisions of § 310.518(c) (which is redesignated in this rule as § 310.518(a)), which requires label warning statements on all iron-containing drugs in solid oral dosage form, except iron-containing inert tablets supplied in monthly packages of oral contraceptives. Nor does this rule affect the provisions of 16 CFR 1700.14(a)(12) and (a)(13), which require special packaging for iron-containing drug and dietary supplement products, respectively, to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances (16 CFR 1700.14(a), (a)(12), and (a)(13)). The regulations in 16 CFR 1700.14 were issued under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*) (PPP Act). The authority to administer and enforce the PPP Act was transferred from FDA to the Consumer Product Safety Commission in 1972 under the enactment of the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*).

III. Authority for Issuing Final Rule

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) provides that when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. FDA has determined that there is good cause under 5 U.S.C. 553(b)(3)(B) and 21 CFR 10.40(d) to forgo notice and comment. As a matter of law, the decision issued by the U.S. Court of Appeals for the Second Circuit and the final judgment of the U.S. District Court for the Eastern District of New York invalidated the provisions of the 1997 final rule requiring unit-dose packaging for solid oral dosage form dietary supplement and drug products that contain 30 mg or more per dosage unit, thereby making these provisions nonbinding and unenforceable. FDA finds that it is therefore unnecessary to provide notice and opportunity for public comment on this action, which merely implements the Court's order. For the same reasons, FDA finds that there is good cause, within the meaning of 5 U.S.C. 553(d)(3) and in accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*, at 808(2)), to make this rule effective immediately.

IV. Environmental Impact

The agency has determined under 21 CFR 25.301(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

Under Executive Order 12866, this action is not a regulatory action that is subject to review by the Office of Management and Budget (OMB). Because the agency has determined that there is good cause to forgo notice and comment requirements under the Administrative Procedure Act or any other statute, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) do not apply.

However, FDA has examined the impacts of this final rule under those

[1] For purposes of the rule, ''unit-dose packaging'' means a method of packaging a product into a nonreusable container designed to hold a signle dosage intended for administration directly from that container, irrespective of whether the recommended dose is one or more than one of these units (62 FR 2218, n.1; see also §111.50(a) and 21 CFR 310.510(a)).

provisions. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. When applicable, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This rule is merely technical in nature and imposes no new burdens on small entities. Indeed, the effect of this rule is to remove a requirement that manufacturers package certain iron-containing dietary supplement and drug products in unit-dose packaging. Finally, a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is required only for nonprocedural rules that impose costs of $110 million or more on either the private sector or State, local, and tribal governments in the aggregate. This rule imposes no such costs.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that this final rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

List of Subjects

21 CFR Part 111

Dietary foods, Drugs, Foods, Packaging and containers.

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 111 and 310 are amended as follows:

PART 111—CURRENT GOOD MANUFACTURING PRACTICE FOR DIETARY SUPPLEMENTS

■ 1. The authority citation for 21 CFR part 111 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 371.

PART 111—[REMOVED AND RESERVED]

■ 2. Part 111, consisting of §111.50, is removed and reserved.

PART 310—NEW DRUGS

■ 3. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

■ 4. Section 310.518 is revised to read as follows:

§ 310.518 Drug products containing iron or iron salts.

Drug products containing elemental iron or iron salts as an active ingredient in solid oral dosage form, e.g., tablets or capsules shall meet the following requirements:

(a) *Labeling.* (1) The label of any drug in solid oral dosage form (e.g., tablets or capsules) that contains iron or iron salts for use as an iron source shall bear the following statement:

WARNING: Accidental overdose or iron-containing products is a leading cause of fatal poisoning in children under 6. Keep this product out of reach of children. In case of accidental overdose, call a doctor or poison control center immediately.

(2)(i) The warning statement required by paragraph (a)(1) of this section shall appear prominently and conspicuously on the information panel of the immediate container label.

(ii) If a drug product is packaged in unit-dose packaging, and if the immediate container bears labeling but not a label, the warning statement required by paragraph (a)(1) of this section shall appear prominently and conspicuously on the immediate container labeling in a way that maximizes the likelihood that the warning is intact until all of the dosage units to which it applies are used.

(3) Where the immediate container is not the retail package, the warning statement required by paragraph (a)(1) of this section shall also appear prominently and conspicuously on the information panel of the retail package label.

(4) The warning statement shall appear on any labeling that contains warnings.

(5) The warning statement required by paragraph (a)(1) of this section shall be set off in a box by use of hairlines.

(b) The iron-containing inert tablets supplied in monthly packages of oral contraceptives are categorically exempt from the requirements of paragraph (a) of this section.

Dated: October 7, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26188 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505–AA99

Terrorism Risk Insurance Program; State Residual Market Insurance Entities

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing this final rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (Act). The Act established a temporary Terrorism Risk Insurance Program (Program) under which the Federal Government will share the risk of insured loss from certified acts of terrorism with commercial property and casualty insurers until the Program ends on December 31, 2005. Treasury published a proposed rule with a request for comment on April 18, 2003. This rule is issued pursuant to section 103(d)(1) of the Act, which directs Treasury to issue regulations that apply the provisions of the Act specifically to State residual market insurance entities and State workers' compensation funds. This rule is the third final rule in a series of regulations that Treasury is issuing to implement the Program.

DATES: This final rule is effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy (202) 622–2730, or Martha Ellett or Cynthia Reese, Attorney-Advisors, Office of the Assistant General Counsel (Banking & Finance), (202) 622–0480, or C. Christopher Ledoux, Senior Attorney,

Terrorism Risk Insurance Program (202) 622–6770 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

A. Terrorism Risk Insurance Act of 2002

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297, 116 Stat. 2322). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Title I of the Act establishes a temporary Federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism, which as defined in the Act is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program, including the issuance of regulations and procedures. The Program will end on December 31, 2005.

Each entity that meets the definition of ''insurer'' (well over 2000 firms) must participate in the Program. The amount of Federal payment for an insured loss resulting from an act of terrorism is to be determined based upon the insurance company deductibles and excess loss sharing with the Federal Government, as specified by the Act and the implementing regulations. An insurer's deductible increases each year of the Program, thereby reducing the Federal Government's share prior to expiration of the Program. An insurer's deductible is calculated based on the value of ''direct earned premiums'' collected over certain statutory periods. Once an insurer has met its individual deductible, the Federal payments cover 90 percent of insured losses above the deductible, subject to an industry-aggregate limit of $100 billion.

The Program provides a Federal reinsurance backstop for three years. The Act provides Treasury with authority to recoup Federal payments made under the Program through policyholder surcharges, up to a maximum annual limit. The Act also prohibits duplicative payments for insured losses that have been covered under any other Federal program.

The mandatory availability or ''make available'' provisions in section 103(c) of the Act require that, for Program Year 1 and Program Year 2 and, if so determined by Treasury, in Program Year 3, all entities that meet the definition of insurer under the Program must make available in all of their property and casualty insurance policies coverage for insured losses resulting from an act of terrorism. This coverage can not differ materially from the terms amounts and other coverage limitations arising from events other than acts of terrorism.

As conditions for Federal payment under the Program, insurers must provide clear and conspicuous disclosure to the policyholders of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program. In addition, the Act requires that insurers must submit a claim and certain certifications to Treasury. Treasury will engage in rulemaking to prescribe claims procedures for the Program at a later date.

The Act also contains specific provisions designed to manage litigation arising from or relating to a certified act of terrorism. Section 107 creates an exclusive Federal cause of action, provides for claims consolidation in Federal court and contains a prohibition on Federal payments for punitive damages under the Program. The Act provides the United States with the right of subrogation with respect to any payment or claim paid by the United States under the Program.

1. Three Year Program

The duration of the Program is three years. The Act was signed into law on November 26, 2002, and section 108(a) of the Act provides that, ''[t]he Program shall terminate on December 31, 2005.'' Thereafter, the Act provides Treasury with certain continuing authority to take actions as necessary to ensure payment, recoupment, adjustments of compensation and reimbursement for insured losses arising out of any act of terrorism occurring during the period between November 26, 2002, and December 31, 2005. The duration of the Program and the Program's termination date should *not* be confused with the make available requirements contained in section 103(c) of the Act. As reflected in both the interim final and final rules, the make available requirements in section 103(c) of the Act apply to all insurers, through the end of Program Year 2. However, the Secretary of the Treasury may determine, not later than September 1, 2004, to extend the make available requirements through Program Year 3, based on factors referenced in section 108(d)(1) of the Act. Regardless of whether the make available requirements of section 103 are extended, the Program and the Act's Federal backstop for insured losses for acts of terrorism continue through December 31, 2005.

2. Program Implementation Goals

In implementing the Program, Treasury is guided by several goals. First, Treasury strives to implement the Act in a transparent and effective manner that treats comparably those insurers required to participate in the Program and provides necessary information to policyholders in a useful and efficient manner. Second, in accord with the Act's stated purposes, Treasury seeks to rely as much as possible on the State insurance regulatory structure. In that regard, Treasury has coordinated the implementation of all aspects of the Program with the National Association of Insurance Commissioners (NAIC). Third, to the extent possible within statutory constraints, Treasury seeks to allow insurers to participate in the Program in a manner consistent with procedures used in their normal course of business. Finally, given the temporary and transitional nature of the Program, Treasury is guided by the Act's goal for insurers to develop their own capacity, resources, and mechanisms for terrorism insurance coverage when the Program expires.

B. The Proposed Rule

The proposed rule proposed to amend subpart D of part 50 in title 31 of the Code of Federal Regulations by adding sections 50.30, 50.33, 50.35, and 50.36. Subpart A of part 50 addresses the scope and purpose of the Program, key definitions and certain general provisions and was finalized and published in the **Federal Register** at 68 FR 41250 (July 11, 2003) (as amended at 68 FR 48280 (August 13, 2003)). Subparts B and C were established by an interim final rule published in the **Federal Register** at 68 FR 19301 (Apr. 18, 2003) and were recently finalized. Subpart B incorporates and clarifies certain conditions for Federal payment contained in section 103(b) of the Act that require insurers to provide certain clear and conspicuous disclosures to their policyholders with regard to terrorism risk insurance for insured losses under the Program. Subpart C clarifies requirements in section 103(c) of the Act that insurers ''make available,'' in all of their commercial property and casualty insurance policies, coverage for insured losses

resulting from an act of terrorism as defined by section 102(1) of the Act. In this regard, section 103(c) requires insurers to make such terrorism risk coverage available at terms, amounts and other coverage limitations that do not differ materially from those applicable to losses arising from events other than from acts of terrorism. Subpart D, as directed by section 103(d)(1) of the Act, applies the provisions of the Act to State residual market insurance entities and State workers' compensation funds. In the preamble to the proposed rule, Treasury requested comment on application of the disclosure requirements of the Act to State residual market insurance entities and State workers' compensation funds. As part of this rulemaking, Treasury is amending section 50.19 of subpart B, which was previously reserved, to apply the disclosure requirements to those entities.

The various rules reflect earlier interim guidance notices, issued by Treasury soon after the Act's enactment date, and designed to assist insurers, policyholders, and other interested parties in complying with immediately applicable and time-sensitive requirements.[1] In finalizing this rule, Treasury carefully considered the comments submitted and consulted with the NAIC.

II. Summary of Comments and Final Rule

Treasury received four comments on the proposed rule. Comments were submitted by a group of insurance trade associations, the Ohio Bureau of Workers' Compensation, and a State residual market insurance entity. After review and careful consideration of these comments, as well as additional research and consultation with the NAIC, Treasury is now promulgating a final rule applying the Act to State residual market insurance entities and State workers' compensation funds (referred to collectively as ''residual market mechanisms'' where appropriate). Treasury has made no changes to the proposed rule. Treasury is, however, adding specific disclosure provisions by amending section 50.19. The final rule and amendment to section 50.19, including clarifications, are discussed in the summary of comments below.

A. Mandatory Participation by Residual Market Mechanisms (Section 50.30)

In subpart D of this final rule, Treasury is setting forth regulations specific to the participation of residual market mechanisms in the Program. Section 102(6) of the Act specifically includes State residual market insurance entities and State workers' compensation funds as insurers that are required to participate in the Program. As we stated in the notice of proposed rulemaking (published in the **Federal Register** at 68 FR 19309 on April 18, 2003), Treasury considers the Act's terms ''State residual market insurance entities'' and ''State workers' compensation funds'' to encompass all State legislatively-created residual market mechanisms that facilitate the availability of primary and excess commercial property and casualty insurance coverage for risks that face difficulties in obtaining such coverage from the voluntary market. This includes—but is not limited to—residual market mechanisms associated with the provision of commercial property, commercial liability, workers' compensation, and commercial automobile coverage. Sections 50.30(a) and (b) of this final rule, taken together, provide that residual market mechanisms are insurers under the Program, even if they do not receive direct earned premiums, and thus are mandatory participants in the Program.

1. List of Residual Market Mechanisms

In its second notice of interim guidance (67 FR 78864), Treasury first published a list of entities that Treasury, in consultation with the NAIC, identified as residual market mechanisms required to participate in the Program and that provide commercial property and casualty insurance, as defined by the Act and regulations. The list is not exclusive. A residual market mechanism should not assume that because it is not listed on Treasury's *List of State Residual Market Mechanisms* it is not required to participate in the Program. *All* State residual market insurance entities and State workers' compensation funds are insurers that *must* participate in the Program. See sections 50.5(f)(1)(D) and 50.4. Treasury's list was merely intended to provide guidance and certainty to those entities on the list as well as to foster transparency in the Program.

In the notice of interim guidance, Treasury encouraged residual market mechanisms that were not included on the list to notify Treasury. Since the publication of that notice of interim guidance, Treasury has continued to work with the NAIC to revise the *List of State Residual Market Mechanisms.* Section 50.30(c) of this final rule explains that Treasury will maintain and continue to update this list from time to time, as necessary. Treasury's list will be publicly available at *www.treasury.gov/trip,* along with the procedures for providing comments and updates.

Treasury, in consultation with the NAIC, has considered the following characteristics in identifying residual market mechanisms that should be included on Treasury's list:

- Was the mechanism created by a state legislature?
- Does the mechanism provide commercial property and casualty insurance to policyholders, either directly or through servicing carriers?
- Does the mechanism seek to make available commercial property and casualty insurance for risks that are ''distressed'' or ''hard to place'' in the voluntary market?
- How does the mechanism share or allocate its profits and losses from its operations?
- Does the mechanism meet the requirements of § 50.5(f)?

2. State Workers' Compensation Reinsurance Pools

Treasury received a comment from the Minnesota Workers' Compensation Reinsurance Association (''WCRA''), a State workers'' compensation reinsurance pool, that requested the Secretary exercise his discretion under section 103(f) of the Act (which mentions State workers' compensation reinsurance pools) and include such pools in the Program. Treasury is not making a section 103(f) determination at this time. However, looking beyond the commenter's name to its function, Treasury has determined that the commenter fits within the residual market mechanism category under section 103(d) of the Act, as explained below.

The WCRA is a State-mandated reinsurance pool from which workers' compensation insurers are required by State law to purchase excess reinsurance. WCRA also provides workers' compensation insurance directly to self-insured employers. While section 102(12)(vii) of the Act expressly excludes reinsurance from the definition of property and casualty insurance covered by the Program, Treasury believes that an insurance arrangement between a self-insured and

[1] These interim guidance notices were published in the **Federal Register** at 67 FR 76206 (Dec. 11, 2002); 67 FR 78864 (Dec. 26, 2002) and at 68 FR 4544 (Jan. 29, 2003). Treasury also issued a fourth interim guidance at 68 FR 15039 (Mar. 27, 2003), which has subsequently been superceded by a new provision in the final rule for Subpart A, published at 68 FR 41250 (July 11, 2003). The interim guidance and all regulations can also be located on Treasury's Terrorism Risk Insurance Program Web site at *www.treasury.gov/trip.*

an insurer, or a pool of insurers, is more like direct primary or excess property and casualty insurance versus traditional reinsurance (*i.e.*, an insurer reinsuring another insurer).

After consulting with the NAIC and considering the characteristics described above, Treasury considers WCRA to be similar to a residual market mechanism. WCRA is a legislatively-established risk pool that issues insurance directly to policyholders, which risks are hard to place in the voluntary insurance market. WCRA also has a procedure through which it shares or allocates its profits and losses with private sector insurers. Therefore, for these reasons, Treasury has added WCRA to its *List of State Residual Market Mechanisms* and its participation in the Program is confirmed. If any other State workers' compensation reinsurance pool believes that it shares the characteristics of a residual market mechanism and believes it should be included on the list, under section 50.9, the reinsurance pool should submit a request for an interpretation of the application of these regulations to its particular circumstance.

B. Allocation of Premium (Sections 50.33 through 50.36)

Section 103(d)(2) of the Act divides residual market mechanisms into two broad classes for purposes of their treatment as insurers under the Program: (1) entities that do not share profits and losses with private sector insurance companies; and (2) entities that do share profits and losses with private sector insurance companies.

Section 103(d)(2)(A) provides that ''a State residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer.'' For State residual market insurance entities that fall under section 103(d)(2)(A) of the Act or for State workers' compensation funds, section 50.33 of the final rule provides that these mechanisms follow the regulations set forth in sections § 50.5(d)(1) or § 50.5(d)(2) for the purposes of calculating the appropriate measure of direct earned premium. Residual market mechanisms functioning in this manner are thus treated as risk bearers in the same manner as private sector insurers. Treasury received a comment from a group of trade associations that endorsed this approach. These provisions of the proposed rule are adopted without change.

Section 103(d)(2)(B) of the Act provides that ''a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.'' Section 103(d)(3) of the Act provides that ''any insurer that participates in sharing profits and losses of a State residual market insurance entity shall include in its calculations or premiums any premiums distributed to the insurer by the State residual market insurance entity.'' Residual market insurance mechanisms functioning in this manner are thus treated as risk apportioning entities and not risk bearing entities. Proposed section 50.35 reflected this treatment and also provided that these entities should continue to report, in accordance with normal business practices, to each participant insurer its share of premium income and insured losses, which is to be included respectively in the participant insurer's direct earned premium and insured loss calculations. Treasury received a comment from a group of trade associations that supported this approach. This provision of the proposed rule is adopted without change.

Section 50.36 of the proposed rule further addressed the calculation of direct earned premium based on the allocation of premium income shared between the residual market mechanism and its servicing carriers or participant insurers. Favorable comments were received on this provision, which is adopted without change.

C. Other Issues

State Residual Market Mechanisms and Natural Disaster Insurance

Treasury received a comment from a residual market mechanism that issues commercial policies that provide coverage only for the peril of wind. The commenter requested that Treasury modify section 50.5(l) of the regulations to exclude commercial single peril wind insurance from the provisions of the Act. The commenter analogized single peril wind insurance to that of flood insurance and earthquake insurance, which are not included in the Program. *See* section 50.5(l)(1). Upon consideration of the comment, Treasury is not revising section 50.5(l). However, as stated in the preamble to the final rule published July 11, 2003, Treasury may later request comment on the exclusion from the Program definition of commercial property and casualty insurance single-peril natural disaster insurance currently included in the Program.

D. Disclosure Requirements (Section 50.19)

Subpart B of 31 CFR part 50 sets forth regulations that address, *inter alia,* the clear and conspicuous disclosures that all insurers are required by the Act to provide to policyholders. Section 50.19 of subpart B, entitled *Disclosure by State residual market insurance entities and State workers' compensation funds,* had been reserved pending this rulemaking. This final rule amends 50.19 to address how residual market mechanisms are to comply with the Act's disclosure requirements.

Section 102(6) of the Act specifically includes residual market mechanisms as insurers that are required to participate in the Program. As a condition for Federal payment under the Program, section 103(b)(2) of the Act requires that insurers provide clear and conspicuous disclosure to policyholders of the premium charged for insured losses covered by the Program and the Federal share of compensation under the Program. Section 103(d) of the Act directed the Secretary of the Treasury to issue regulations as soon as practicable that apply the provisions of the Act (including the disclosure requirements) to residual market mechanisms.

On December 18, 2002, Treasury issued a second notice of interim guidance (67 FR 78864). In this notice of interim guidance Treasury indicated it would temporarily waive the disclosure requirements for those insurers that: (1) are State residual market insurance entities and State workers' compensation funds; and (2) have insufficient information to issue the disclosures, until Treasury issued regulations as required under section 103(d) to apply the provisions of the Act to these entities. Thus, the waiver provided a safe harbor pending the issuance of this final rule. We expected residual market mechanisms to have provided the disclosures if they possessed sufficient information to do so.

In the preamble to the proposed rule, Treasury stated that it was still evaluating the applicability of the disclosure requirements to certain insurers in this category and asked for public comment. Treasury received two comments on this issue. One comment deferred the issue to Treasury. Another commenter requested that Treasury exempt State workers' compensation funds from the disclosure requirements. The commenter argued that the burden and cost associated with providing the disclosures outweighs the goals of such

notice, especially where the fund does not charge additional premium for insured losses.

Section 103(b) of the Act requires that insurers make certain disclosures to policyholders as a condition for federal payment under the Act. Section 50.10 of the regulations states, in part, that an insurer must provide clear and conspicuous disclosure to the policyholder of: (1) the premium charged for insured losses covered by the Program; and (2) the Federal share of compensation for insured losses under the Program. Congress required this disclosure in order ''to enhance the competitiveness of the marketplace by better enabling consumers to comparison shop for terrorism insurance coverage, and to make policyholders better aware that the Federal government will be sharing the costs of such coverage with insurers thereby reducing the insurers' exposure.'' H.R. Conf. Rep. No. 107–779, at 24 (2002).

After consideration of the comment and the relevant provisions of the Act, and following consultation with NAIC and additional study of the issue, Treasury is applying disclosure provisions to residual market mechanisms that have not yet issued disclosures to policyholders. Thus, Treasury is issuing regulations relating to the disclosures required of State residual market insurance entities and State workers' compensation funds by amending section 50.19 of subpart B in this final rule. These regulations supercede the earlier interim guidance referenced above and the safe-harbor provided in that guidance will no longer be available to these insurers.

Section 50.19 generally follows the regulations applicable to all other insurers. In order to provide residual market insurance mechanisms with sufficient time to come into compliance (if they are not already), section 50.19 provides a 90-day safe harbor. For policies in force on October 17, 2003, or issued or renewed on or before January 15, 2004, the disclosure is required by the Act but the condition for Federal payment is waived with regard to those policies until January 15, 2004. In section 50.12(c), Treasury has provided that ''an insurer may provide disclosure using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders.'' Section 50.19(b) extends this rule to State residual market insurance entities and State workers' compensation funds and clarifies that while disclosures may be made by the residual market mechanism, the individual insurers that participate in the residual market, or the servicing carriers (depending on their normal business practices), the ultimate responsibility for ensuring that the disclosure requirements have been met rests with the insurer that will be filing any claim. In accordance with other requirements of subpart B, disclosure must be clear and conspicuous, made on a separate line item in the policy at the time of offer, purchase, and renewal of the policy.

III. Procedural Requirements

The Act established a Program to provide for loss sharing payments by the Federal Government for insured losses resulting from certified acts of terrorism. The Act became effective immediately upon the date of enactment (November 26, 2002). Preemptions of terrorism risk exclusions in policies, mandatory participation provisions, disclosure and other requirements and conditions for Federal payment contained in the Act applied immediately to those entities that come within the Act's definition of ''insurer.''

This rule amends subpart D to part 50 in title 31 that addresses how the Program applies to State residual market insurance entities and State workers' compensation funds. This rule also amends section 50.19 of subpart B. This rule is intended to respond to section 103(d)(1) of the Act, which directs Treasury to issue regulations that apply the provisions of the Act to State residual market insurance entities and State workers' compensation funds. Given the importance of applying regulations to State residual market insurance entities and State workers' compensation funds, there is an urgent need to issue immediately effective regulations.

Accordingly, pursuant to 5 U.S.C. 553(d)(3), Treasury has determined that there is good cause for the final rule to become effective immediately upon publication.

This final rule is a significant regulatory action and has been reviewed by the Office of Management and Budget under the terms of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Act itself requires State residual market insurance entities and State workers' compensation funds to participate in the Program, and these entities or funds are generally not small entities.

The Act itself requires all licensed or admitted insurers to participate in the Program. This includes all insurers regardless of size or sophistication. Although insurers that participate in sharing profits and losses of a State residual market insurance entity or State workers' compensation fund may include small entities, the proposed rule is based on existing business practices of residual market entities in determining the impact on participating insurers. The Act also defines property and casualty insurance to mean commercial lines without any reference to the size or scope of the commercial entity. Accordingly, any economic impact associated with the proposed rule flows from the Act and not the proposed rule. However, the Act and the Program are intended to provide benefits to the U.S. economy and all businesses, including small businesses, by providing a Federal reinsurance backstop to commercial property and casualty insurance policyholders and spreading the risk of insured loss resulting from an act of terrorism. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

■ For the reasons set forth above, 31 CFR part 50 is amended as follows:

PART 50—TERRORISM RISK INSURANCE PROGRAM

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

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322 (15 U.S.C 6701 note).

■ 2. Section 50.19 of subpart B is revised to read as follows:

§ 50.19 1General disclosure requirements for State residual market insurance entities and State worker's compensation funds.

(a) *Policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004.* For policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004, the disclosure required by section 103(b) of the Act as a condition for Federal payment is waived for those State residual market insurance entities and State workers' compensation funds that since November 26, 2002, have not provided disclosures to policyholders, until January 15, 2004, after which disclosures are to be made to policyholders for policies then in force and subsequently issued.

(b) *Residual Market Mechanism Disclosure.* A State residual market insurance entity or State workers' compensation fund may provide the disclosures required by this subpart B to policyholders using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders. The disclosures may be made by the State residual market insurance entity or State workers' compensation fund itself, the individual insurers that participate in the State residual market insurance entity or a State workers' compensation fund, or its servicing carriers. The ultimate responsibility for ensuring that the disclosure requirements have been met rests with the insurer filing a claim under the Program.

(c) *Other requirements.* Except as provided in this section, all other disclosure requirements set out in this subpart B apply to State residual insurance market entities and State workers' compensation funds.

(d) *Prior safe harbor superseded.* This section supersedes the disclosure safe harbor provisions found at paragraph C.4 of the Interim Guidance issued by Treasury in a notice published on December 18, 2002, and published at 67 FR 78864 (December 26, 2002).

■ 3. Subpart D of part 50 is amended by adding §§ 50.30, 50.33, 50.35, and 50.36 to read as follows:

§ 50.30 General participation requirements.

(a) *Insurers.* As defined in § 50.5(f), all State residual market insurance entities and State workers' compensation funds are insurers under the Program even if such entities do not receive direct earned premiums.

(b) *Mandatory Participation.* State residual market insurance entities and State workers' compensation funds that meet the requirements of § 50.5(f) are mandatory participants in the Program subject to the rules issued in this Subpart.

(c) *Identification.* Treasury will release and maintain a list of State residual market insurance entities and State workers' compensation funds at *www.treasury.gov/trip.* Procedures for providing comments and updates to that list will be posted with the list.

§ 50.33 Entities that do not share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that does not share profits and losses with a private sector insurer is deemed to be a separate insurer under the Program.

(b) *Premium calculation.* A State residual market insurance entity or a State workers' compensation fund that is deemed to be a separate insurer should follow the guidelines specified in § 50.5(d)(1) or 50.5(d)(2) for the purposes of calculating the appropriate measure of direct earned premium.

§ 50.35 Entities that share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that shares profits and losses with a private sector insurer is not deemed to be a separate insurer under the Program.

(b) *Premium and loss calculation.* A State residual market insurance entity or a State workers' compensation fund that is not deemed to be a separate insurer should continue to report, in accordance with normal business practices, to each participant insurer its share of premium income and insured losses, which shall then be included respectively in the participant insurer's direct earned premium or insured loss calculations.

§ 50.36 Allocation of premium income associated with entities that do share profits and losses with private sector insurers.

(a) *Servicing Carriers.* For purposes of this Subpart, a servicing carrier is an insurer that enters into an agreement to place and service insurance contracts for a State residual market insurance entity or a State workers' compensation fund and to cede premiums associated with such insurance contracts to the State residual market insurance entity or State workers' compensation fund. Premiums written by a servicing carrier on behalf of a State residual market insurance entity or State workers' compensation fund that are ceded to such an entity or fund shall not be included as direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the servicing carrier.

(b) *Participant Insurers.* For purposes of this Subpart, a participant insurer is an insurer that shares in the profits and losses of a State residual market insurance entity or a State workers' compensation fund. Premium income that is distributed to or assumed by participant insurers in a State residual market insurance entity or State workers' compensation fund (whether directly or as quota share insurers of risks written by servicing carriers), shall be included in direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the participant insurer.

Dated: October 1, 2003.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 03–26250 Filed 10–16–03; 8:45 am]

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DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505–AA98

Terrorism Risk Insurance Program; Disclosures and Mandatory Availability Requirements

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing this final rule concerning disclosures and mandatory availability requirements as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (Act). The final rule incorporates and clarifies conditions for federal payment, set forth in section 103(b) of the Act, that require insurers to make certain disclosures to policyholders. It also incorporates and clarifies the section 103(c) requirements that insurers ''make available'' in their commercial property and casualty policies terrorism risk insurance coverage for insured losses resulting from certified acts of terrorism under the Act. Treasury issued an interim final rule and proposed rule with request for comment. This final rule, which is the second in a series of regulations that Treasury is issuing to implement the Program, adopts the interim final rule with several modifications as discussed below.

DATES: This final rule is effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy (202) 622–2730, or Martha Ellett or Cynthia Reese, Attorney-Advisors, Office of the Assistant General Counsel (Banking & Finance), (202) 622–0480, or C. Christopher Ledoux, Senior Attorney, Terrorism Risk Insurance Program (202) 622–6770 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

A. Terrorism Risk Insurance Act of 2002

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297, 116 Stat. 2322). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and

affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Title I of the Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism which, as defined by the Act, is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program, including the issuance of regulations and procedures. The Program will end on December 31, 2005.

Each entity that meets the Act's definition of ''insurer'' (well over 2000 firms) must participate in the Program. The amount of federal payment for an insured loss resulting from an act of terrorism is to be determined, based upon the insurance company deductibles and excess loss sharing with the Federal Government, as specified by the Act and the implementing regulations. An insurer's deductible increases each year of the Program, thereby reducing the Federal Government's involvement prior to expiration of the Program. An insurer's deductible is calculated based on the value of ''direct earned premiums'' collected over certain statutory periods. Once an insurer has met its individual deductible, the federal payments cover 90 percent of the insured losses above the deductible, subject to an industry-aggregate limit of $100 billion.

The Program provides a federal reinsurance backstop for three years. The Act gives Treasury authority to recoup federal payments made under the Program through policyholder surcharges, up to a maximum annual limit. The Act also prohibits duplicative federal payments for insured losses that have been covered under any other federal program.

The mandatory availability or ''make available'' provisions in section 103(c) of the Act require that, for Program Year 1 and Program Year 2 and, if so determined by Treasury, in Program Year 3, all entities that meet the Act's definition of insurer must make available, in all of their property and casualty insurance policies, coverage for insured losses resulting from an act of terrorism. This coverage can not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

As conditions for federal payment under the Program, clear and conspicuous disclosures must be provided by insurers to the policyholders of the premium charged for insured losses covered by the Program and the federal share of compensation for insured losses under the Program. In addition, the Act requires that insurers submit a claim to Treasury for federal payment as well as certain certifications. Treasury will engage in rulemaking to prescribe claims procedures for the Program at a later date.

The Act also contains provisions designed to manage litigation arising from or relating to a certified act of terrorism. Section 107 of the Act creates an exclusive federal cause of action, provides for claims consolidation in federal court, and contains a prohibition on federal payments for punitive damages under the Program. The Act provides the United States with the right of subrogation with respect to any payment or claim paid by the United States under the Program.

1. Three Year Program

The duration of the Program is three years. The Act was signed into law on November 26, 2002 and section 108(a) of the Act provides that, ''[t]he Program shall terminate on December 31, 2005.'' Thereafter, the Act provides Treasury with certain continuing authority to take actions as necessary to ensure payment, recoupment, adjustments of compensation and reimbursement for insured losses arising out of any act of terrorism occurring during the period between November 26, 2002 and December 31, 2005. The duration of the Program and the Program's termination date should not be confused with the make available requirements contained in section 103(c). As reflected in both the interim final and final rules, the make available requirements in section 103(c) of the Act apply to all insurers, through the end of Program Year 2. However, the Secretary of the Treasury may determine, not later than September 1, 2004, to extend the make available requirements through Program Year 3, based on factors referenced in section 108(d)(1) of the Act. Regardless of whether the make available requirements of section 103 are extended, the Program and the Act's federal backstop for insured losses for acts of terrorism continue through December 31, 2005.

2. Program Implementation Goals

In implementing the Program, Treasury is guided by several goals. First, Treasury strives to implement the Act in a transparent and effective manner that treats comparably those insurers required to participate in the Program and provides necessary information to policyholders. Second, in accord with the Act's stated purposes, Treasury seeks to rely as much as possible on the State insurance regulatory structure. In that regard, Treasury has closely coordinated its implementation of all aspects of the Program with the National Association of Insurance Commissioners (NAIC). Third, to the extent possible within statutory constraints, Treasury seeks to allow insurers to participate in the Program in a manner consistent with procedures used in their normal course of business. Finally, given the temporary and transitional nature of the Program, Treasury is guided by the Act's goal for insurers to develop their own capacity, resources, and mechanisms for terrorism insurance coverage when the Program expires on December 31, 2005.

B. The Interim Final Rule

The interim final rule was published in the **Federal Register** at 68 FR 19302 (April 18, 2003). It added sections 50.10 through 50.14 and 50.17 through 50.19 to Subpart B, and sections 50.20, 50.21, 50.23, and 50.24 to Subpart C of Part 50 in Title 31, Code of Federal Regulations. Subpart A of Part 50, which addresses the scope and purpose of the Program, key definitions and certain general provisions, was finalized and published in the **Federal Register** at 68 FR 41250 (July 11, 2003) and subsequently revised at 68 FR 48280 (August 13, 2003). Subpart B incorporates and clarifies certain conditions for federal payment contained in section 103(b) of the Act that require insurers to make certain clear and conspicuous disclosures to their policyholders with regard to terrorism risk insurance for insured losses under the Program. Subpart C incorporates and clarifies requirements in section 103(c) of the Act that insurers ''make available,'' in all of their commercial property and casualty insurance policies, coverage for insured losses resulting from an act of terrorism as defined by section 102(1) of the Act. In this regard, section 103(c) requires insurers to make such terrorism risk coverage available at terms, amounts, and other coverage limitations that do not differ materially from those applicable to losses arising from events other than from acts of terrorism.

This final rule (and the preceding interim final rule) reflect earlier interim guidance, issued by Treasury in notices that were published soon after the Act's enactment date, and were designed to assist insurers, policyholders and other interested parties in complying with immediately applicable and time-sensitive requirements.[1] In finalizing the interim final rule, Treasury carefully considered the comments submitted and consulted with the NAIC.

II. Summary of Comments and Final Rule

Treasury received 12 comments on the interim final rule. Comments were submitted by individual insurance companies and their legal counsel, by insurance and mortgage banker industry trade associations, by a coalition of trade and professional associations and by the American Academy of Actuaries. After review and careful consideration of these comments, as well as additional research and consultation with the NAIC, Treasury is now promulgating a final rule concerning the Act's disclosure and make available requirements. The final rule makes few changes to the interim final rule. Clarifications were made in several areas based on comments received. These clarifications are discussed in the summary of comments below.

A. Disclosures

1. General Disclosure Requirements (Section 50.10)

Section 103(b) of the Act requires insurers to make certain disclosures to policyholders as a condition for federal payment under the Act. The general disclosure requirements of section 50.10 of the interim final rule incorporate the Act's requirements. This section of the final rule is unchanged from the interim final rule. Section 50.10 states, in part, that an insurer must provide clear and conspicuous disclosure to the policyholder of: (1) The premium charged for insured losses covered by the Program; and (2) the federal share of compensation for insured losses under the Program. As discussed below, the disclosure provisions are a condition for federal payment under the Act and a mechanism through which Congress sought to enhance competition and comparison shopping in the purchase of terrorism risk insurance and to increase awareness of the federal contribution to the Program.

One commenter, a mortgage banking trade association, urged Treasury to revise the interim final rule to specifically require insurers to notify lenders, securitizers, and servicers of commercial mortgages (collectively referred to in this preamble as mortgage finance providers) of the terrorism coverage options offered under the Act. The commenter also requested that the interim final rule be changed to require insurers to provide notice to these mortgage finance providers of their borrowers' acceptance or rejection of the terrorism risk insurance coverage made available by the insurer. In support of these suggested revisions, the commenter stated that mortgage finance providers are having difficulty determining ''whether most of the properties in their portfolios carry adequate terrorism risk insurance as required by loan documents.'' The commenter also asserts that the absence of these suggested extensions to the current regulatory disclosure requirements produces inefficiencies in the commercial real estate and capital markets, including information gaps that may have an adverse effect on economic growth and on the condition of key financial institutions.

In a careful evaluation of whether the suggested revisions to the interim final rule were appropriate, Treasury first reviewed the scope of the disclosure provisions of section 103(b) of the Act and then considered the legislative history concerning those disclosure requirements. Treasury also considered whether there were alternative ways in which these mortgage finance providers may obtain the insurance coverage information they seek from their borrowers. Treasury consulted with the NAIC concerning definitions in various state laws and typical industry business practices and standards. For the reasons discussed below, Treasury is not extending the disclosure requirement in the interim final rule as suggested by the commenter.

Section 103(b) requires that clear and conspicuous disclosure of certain information be provided by insurers to ''policyholders.'' The Conference Report to the Act states that Congress required the disclosures in section 103(b) in order, ''to enhance the competitiveness of the marketplace by better enabling consumers to comparison shop for terrorism insurance coverage, and to make policyholders better aware that the Federal government will be sharing the costs of such coverage with insurers thereby reducing the insurers' exposure.'' H.R. Conf. Rep. No. 107–779, at 24 (2002). Neither the language in section 103(b) of the Act, nor the congressional intent of these disclosures as explained in the Conference Report, requires that these disclosures be made to mortgage finance providers or other entities that are not policyholders. Similarly, there is no third party notification requirement in the Act concerning whether a policyholder has, or has not, elected to purchase terrorism risk insurance coverage. The stated legislative intent of the disclosures is to enhance comparison shopping and Program awareness by policyholders.

For purposes of the Program, policyholder refers to the ''person'' to whom the insurer issues a commercial property and casualty insurance policy and who has apparent authority to negotiate, determine or modify the terms of the insurance contract. In this regard, the Act and Treasury's regulations require insurers to disclose information about the premium and the federal share of compensation to policyholders at the time of offer, purchase, and renewal.

In its comment, the association also expressed a concern that, ''under notice provisions to the mortgagee contained in existing insurance policies, a partial cancellation of coverage for terrorism (as opposed to a cancellation of the entire policy) may be deemed by the insurers as an endorsement of the policy that does not require the insurer to send notice to the mortgage lender.'' Thus, the commenter is concerned that mortgage finance providers may not be notified if there is a subsequent change in the policy with regard to terrorism risk insurance. However, the commenter also acknowledges that the failure of mortgage finance providers to obtain such notice appears to be due to the drafting of notice provisions in policies.

Treasury considered whether there were other, perhaps more appropriate ways, in which mortgage finance providers could obtain the information they seek from their borrowers instead of through the expansion of the statutory disclosure requirements under this temporary Program. Treasury understands that mortgage finance providers generally may obtain the information about the status of a borrower's coverage for terrorism risks (whether the losses are those covered by the Program or broader in scope) through their underwriting requirements and/or by contract. For example, loan documents generally require that borrowers provide appropriate insurance coverage

[1] These interim guidance notices were published in the **Federal Register** at 67 FR 76206 (Dec. 11, 2002); 67 FR 78864 (Dec. 26, 2002) and at 68 FR 4544 (Jan. 29, 2003). Treasury also issued a fourth interim guidance at 68 FR 15039 (Mar. 27, 2003), which has subsequently been superceded by a new provision in the final rule for Subpart A, published at 68 FR 41250 (July 11, 2003). The interim guidance and all regulations can also be located on Treasury's Terrorism Risk Insurance Program Web site at *http://www.treasury.gov/trip.*

information to their mortgage finance providers, including information on terrorism risk insurance coverage. In its comment, the association acknowledged this, but stated that these requirements are frequently ignored by borrowers and costly to enforce. In Treasury's view, the issue appears to be one of contract negotiation, monitoring and enforcement by the parties rather than of regulation under the Program.

In this regard, we also understand that ACORD, an independent, nonprofit insurance group comprised of insurance company, reinsurance company and financial service institution affiliated members that assists in the cooperative development and implementation of insurance (and related financial services) standards, has agreed to work with mortgage finance providers to revise standard insurance certificates. The goal of this market driven effort is to better facilitate access by the mortgage finance providers to the insurance coverage information concerning terrorism risk insurance and other types of insurance coverage.

Based on our review of section 103(b) and of the legislative intent of the disclosure requirements as described in the Conference Report, and our understanding of industry practice and ongoing initiatives, as indicated by the commenter and in consultations with NAIC, Treasury is not expanding the reach of the disclosure to policyholder requirements set forth in the interim final rule.

2. Clear and Conspicuous Disclosure (Section 50.12)

As stated above, section 50.10 reflects the requirement in section 103(b) of the Act that the insurer must provide ''clear and conspicuous disclosure'' to the policyholder of the premium charged and the federal share of payments for insured losses under the Program. Section 50.12 of the interim final rule addresses the meaning of ''clear and conspicuous'' disclosure for purposes of the Program. Except as noted below with respect to section 50.12(d), this final rule adopts interim section 50.12 without change.

Section 50.12(a) of the interim final rule provides that whether a disclosure is clear and conspicuous depends on the totality of the facts and circumstances. Consistent with the Program implementation goals, the interim final rule does not specify an exclusive form or means of satisfying the statutory disclosure requirements, nor does it prescribe precise language, typeface, or font for the disclosures. In interim guidance issued by Treasury soon after enactment of the Act, Treasury deemed certain NAIC model forms to be an acceptable, nonexclusive way in which an insurer could satisfy the disclosure requirement. (These model forms are available at the Program's Web site: *http://www.treasury.gov/trip*). Treasury stated that insurers could modify the NAIC model forms to meet individual circumstances, or use other forms, as long as the modifications met the statutory standards. This interim guidance was incorporated into the interim final rule and is now in the final rule, which also provides a safe harbor (see section 50.17). Insurers may continue to use certain NAIC model forms if appropriate or they may develop other disclosure forms that meet the requirements of the Act and the regulations. Treasury received one comment on section 50.12(a) of the interim final rule, which was supportive of Treasury's approach. Section 50.12(a) of the interim final rule is adopted without change.

Section 50.12(b) of the interim final rule provides that, in describing the premium charged for insured losses covered by the Program, an insurer may refer to it as a portion or percentage of an annual premium, if consistent with normal business practice; but, may not describe this premium in a manner that would be misleading in the context of the Program, such as by characterizing it as a ''surcharge.'' It is inappropriate and misleading to use the term ''surcharge'' in the disclosures because surcharge is a term used in section 103(e)(8) of the Act in connection with the statutorily required recoupment.

Treasury received two comments on this provision. One commenter, an association of insurance brokers and agents, strongly supported Treasury's position. This commenter believed the use of the term ''surcharge'' in disclosing the premium, ''threatened both to undermine the ability of consumers to properly evaluate their coverage needs and to call into question the legitimacy of the Program.'' An insurance industry association commented that the group had ''no objection'' to this section in the interim final rule. Section 50.12(b) of the interim final rule is adopted without change.

Section 50.12(c) of the interim final rule allows insurers to make the required disclosures using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders. The comments generally supported this approach, which is adopted without change.

Section 50.12(d) of the interim final rule provides further guidance on the use of an agent to provide the required disclosures to policyholders. The interim final rule refers to an insurance broker or other intermediary acting as agent for the insurer, if the insurer normally communicates with a policyholder in this fashion. An insurance industry association commenter suggested that, in view of the diverse treatment of the legal status of insurance brokers under the laws of the various States, unnecessary confusion may result from the use of terms such as ''agent'' and ''broker'' with varying implications in different jurisdictions. The commenter suggested that the final rule instead use the term ''producer.'' Treasury agrees with this suggestion, but emphasizes that if the insurer elects to make the required disclosure through a producer or other intermediary, regardless of on whose behalf the producer or other intermediary is acting, the insurer remains responsible for ensuring that the disclosures are provided by the producer or other intermediary to policyholders in accordance with the Act. Accordingly, Treasury is modifying section 50.12(d) consistent with this comment.

Section 50.12(e) of the interim final rule provides generally that an insurer may demonstrate that it has satisfied the requirement to provide clear and conspicuous disclosure through use of appropriate systems and normal business practices that demonstrate a practice of compliance. Although no comments explicitly addressed this provision, the comments generally supported the overall approach in section 50.12. Section 50.12(e) is adopted without change.

Section 50.12(f) of the interim final rule provides that an insurer must certify that it has complied with the requirement to provide disclosure to the policyholder on all policies that form the basis for the underlying claim(s) submitted by the insurer for federal payment under the Program. One commenter believed the language of section 50.12(f) itself was clear, but stated that the corresponding discussion in the preamble to the interim final rule was not as clear and requested further clarification in the final rule.

This final rule adopts section 50.12(f) of the interim final rule without change. Section 50.12(f) requires that, on all policies that form the basis for any claim that the insurer submits for federal payment for insured losses under the Program, an insurer must certify that it has complied with requirements to make disclosures to

those policyholders covered by the policies. These insured losses are used in determining whether an insurer has met its insurer deductible under the Program. If an insurer chooses not to provide disclosures on a block of policies covered by the Program, the insurer will not receive federal payment for any claims it may submit to Treasury for insured losses covered by such policies because the required disclosures—a condition for federal payment—were not made. The insurer could submit a claim for federal payment under the Program on another block of policies, as long as the insurer made the required disclosures to those policyholders, and otherwise met all other conditions for payment of those insured losses. Treasury will initiate a future rulemaking concerning claims and certification procedures for purposes of the Program.

The following example provides further clarification of section 50.12(f). A surety insurer may satisfy the Act's make available requirement by providing terrorism risk insurance coverage under the Program to a block of notary public bond policyholders at no cost. The surety insurer may decide not to provide disclosure notices to those policyholders because it considers the expense of making the disclosures as being greater than the benefit of receiving the federal payments under the Program. Therefore, the insurer would be liable for any insured losses on the notary public bonds, but would not be eligible to receive any federal payment under the Program backstop on such losses because a condition for federal payment (making the requisite disclosures to policyholders) was not met. However, if the insurer provides the required disclosures to policyholders insured under a separate block of construction bond policies, the failure to make disclosures to the notary public bond policyholders would not prevent the insurer from certifying that it provided the required disclosure to policyholders insured under the construction bond policies for which the insurer was seeking federal payment for insured losses under the Program. The insured losses under the construction bond policies ''form the basis'' for a claim submitted for federal payment; the insured losses under the notary public bonds do not. Regardless of whether disclosures are provided, direct earned premiums on the notary public bonds would be included in the calculation of the insurer deductible for purposes of the Program and such notary public bond policyholders would be subject to any subsequent recoupment. The insurer's calculation of insured losses under the Program for purposes of meeting its insurer deductible would include only those losses on the construction bonds.

Section 50.12(f) relates to other aspects of the Program in the following ways. First, regardless of whether an insurer intends to submit a claim for federal payment, all insurers must comply with the make available requirements of section 103(c) of the Act and in the regulations. Second, in calculating its direct earned premium and insurer deductible under the Program, an insurer must include premium income from all policies for commercial property and casualty insurance for losses occurring at certain locations (see section 50.5(d)), whether or not the insurer made the required disclosures. Third, an insurer may submit a claim for federal payment only for those ''insured losses'' on policies on which the insurer made required disclosures to policyholders. Finally, all commercial property and casualty insurance policies are subject to the Act's surcharge provisions, regardless of whether the insurer made the disclosures. Accordingly, if an insurer fails to provide the disclosure notices to its policyholders, the insurer will not have met conditions for federal payment and will not be eligible for federal payment for insured losses under those policies. The insurer, however, will continue to be subject to the make available requirements, and the insurer and its policyholders will continue to be subject to the surcharge provisions under the Act and the Program.

3. Separate Line Item (Section 50.14)

Section 50.14 of the interim final rule incorporates interim guidance previously issued by Treasury that deems an insurer to be in compliance with the requirement of providing disclosure on a ''separate line item in the policy'' under section 50.10(d), and in compliance with section 103(b)(2)(C) of the Act, if the insurer makes the disclosure: (1) on the declarations page of the policy; (2) elsewhere within the policy itself; or (3) in any rider or endorsement that is made a part of the policy. In addition to the clear and conspicuous requirement, the Act requires that the separate line item disclosure be ''in the policy.''

Rather than require insurers to rewrite all of their policies, Treasury has determined that the disclosure is sufficient if made on the declarations page or within any rider or endorsement that is made a part of the policy. One commenter suggested revising the interim final rule to clarify that other documents could be used. This commenter contended this would make it clear that compliance is not dependent on the name or title of the document, but rather on the fact that such disclosure document is made part of the policy. Treasury agrees and is amending section 50.14(c) accordingly.

B. Mandatory Availability

1. General Mandatory Availability Requirements (Sections 50.20 and 50.21)

Sections 103(c)(1)(A) and (B) of the Act require an insurer (as defined by the Act and the implementing regulations) to make available, in all of its property and casualty insurance policies, coverage for insured losses; and to make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other that acts of terrorism. The make available requirements apply during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 2 unless the make available requirements are extended by the Secretary through Program Year 3. The duration and possible extension of the make available requirements in section 103(c) should not be confused with the established three-year duration of the Program as provided by section 108 of the Act.

2. Policies in Existence on November 26, 2002

Section 50.21(a) of the interim final rule states, in part, that the make available requirement of the Act applies to insurance policies in existence on November 26, 2002 (the date of enactment of the Act). One commenter suggested this provision may not be technically correct. The commenter reasoned that the make available requirement applies at the time of initial offer of coverage and that for policies in existence on November 26, 2002, the initial offer of coverage had already occurred, and, further, that only section 105 (voiding of terrorism exclusions) is applicable for policies in existence at the time of enactment.

It is Treasury's view that the make available requirement applies to policies in existence on November 26, 2002. Section 103(c)(1)(A) of the Act mandates that beginning on the first day of the Transition Period (defined in section 102(11) as of the date of enactment), an insurer shall make available coverage for insured losses in all of its property and casualty insurance policies. Section 105 of the Act, in effect, made coverage

available upon enactment of the Act by voiding any exclusions within insurance policies that were in existence on November 26, 2002. Because the make available requirement and the process in section 105 of the Act for voiding terrorism risk insurance exclusions and offering coverage are generally consistent for commercial property and casualty policies in effect on November 26, 2002, Treasury has decided that no additional clarification is needed. See below for a discussion of the ''initial offer of coverage'' provision in the rule.

3. Initial Offer of Coverage

Section 50.21(a) of the interim final rule provides that the make available requirement also applies to new policies issued and renewals of existing policies during the period beginning on November 26, 2002 and ending on December 31, 2004 (the last day of Program Year 2) and, if the requirement is extended by the Secretary, to new policies issued and renewals of existing policies in Program Year 3 (calendar year 2005). The last line of 50.21(a) states that the ''requirement applies at the time an insurer makes the initial offer of coverage.''

One commenter, an insurance trade association, proposed revising the interim final rule by adding language to the end of section 50.21 stating that the make available requirement applies at the time an insurer makes the initial offer of coverage ''and at no other time.'' The commenter suggested this revision because of a concern that a policyholder may try to purchase terrorism risk insurance coverage during a policy period (for example, upon a heightened state of terror alert) despite having rejected an initial offer of coverage by an insurer.

In context, Treasury believes the requirement in section 50.21(a) is clear. It is Treasury's view that by offering the coverage at the time of initial offer, the insurer has satisfied the make available requirement. However, the commenter's suggested change would limit the make available requirement more narrowly than intended by Treasury. This is because the initial offer of coverage is not the only time when the make available requirement applies. Treasury did not intend section 50.21 of the interim final rule to be read to mean that, as long as an insurer makes coverage available through an initial offer, the insurer has no further obligation to make coverage available to the policyholder during the Program's duration (*e.g.*, at initial offer of renewal or in a new policy.) An insurer must make the coverage available, not only at the time of initial offer, but also upon offer of policy renewal.

It is Treasury's view that an insurer need not make coverage available to a policyholder who did not accept an initial offer of coverage and later demands the coverage be added to the same policy during the policy period (*i.e.*, through endorsement). In such a situation, the policyholder is not left without options; a policyholder can cancel its policy and solicit a new offer or proposal for insurance. Treasury is modifying section 50.21(a) to clarify the make available requirement applies at the time an insurer makes the initial offer of coverage as well as at the time an insurer makes an initial offer of renewal of an existing policy.

This insurance association commenter also suggested that Treasury consider changing the rule to eliminate the requirement that an insurer make available coverage through an initial offer. Instead, the commenter proposed that an insurer only be required to simply disclose that coverage is available for purchase and to invite policyholders to contact the insurer for an offer or quote, if desired. The commenter suggested that insurers could still make a formal offer of coverage if consistent with their normal business practice, but an offer would not be required. Treasury is not adopting this suggestion, which is inconsistent with the purposes of the statutory provisions.

4. Umbrella-Type Policies

An insurance industry trade association commenter raised several questions about the applicability of the make available requirement for insured losses through commercial property and casualty umbrella insurance. In response, Treasury emphasizes that commercial property and casualty umbrella insurance is included in the Program because it falls within the Program's definition of commercial property and casualty insurance. Therefore, an insurer that offers such umbrella insurance coverage is subject to the make available requirements.

Section 102(12) of the Act defines commercial lines of property and casualty insurance to specifically include ''excess insurance.'' Section 50.5(l) of the regulations further defines commercial property and casualty insurance with reference to certain lines of insurance business reported on NAIC's Annual Statement's Exhibit of Premiums and Losses, commonly known as Statutory Page 14. Commercial property and casualty umbrella insurance is reported on Statutory Page 14 and not otherwise excluded. Such umbrella policies are within the definition of ''commercial property and casualty insurance.'' If the umbrella policy issuer is an insurer under the Act, it must participate in the Program and it is subject to the Act's requirements.

Accordingly, insurers that issue commercial property and casualty insurance through umbrella policies are subject to the make available requirements of the Program. This means that they must (1) make available in all of their commercial property and casualty insurance policies coverage for insured losses and (2) make available such coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

The commenter also stated that some policyholders have declined insurance coverage for losses caused by an act of terrorism from their primary insurance carriers, electing instead to have such losses covered by the ''drop down'' coverage afforded through their (presumably less expensive) umbrella insurance policies. To prevent what the commenter characterizes as policyholder ''gaming,'' the commenter suggests that ''Treasury permit an umbrella insurer, in accordance with normal business practice, to refuse to drop down where the insured intentionally elected to forego primary coverage for acts of terrorism.''

Although Treasury understands that certain provisions of the Act may not fit neatly with typical business practices of umbrella policy underwriters and other insurers, Treasury has determined to not revise the interim final rule as suggested because it may create a situation that appears to excuse an insurer from fulfilling its contractual obligation to pay a policyholder's claim for an insured loss that otherwise may be covered by the terms and conditions of a policy covered by the Program. Instead, it is Treasury's view that the commenter's concern is more appropriately addressed by the insurer that issues the umbrella policy, for example, through the insurer's underwriting procedures, pricing, and/or policy drafting. Therefore, an umbrella insurer could draft policy language that excludes from ''drop down'' coverage any losses arising from perils for which insurance was available from the primary or underlying insurer but was intentionally not purchased by the policyholder, provided: (1) The language does not differ materially from the terms and other coverage limitations applicable to losses arising from events other than acts of terrorism and (2) the

exclusion is otherwise permitted by State law.

Another commenter raised similar questions with regard to Difference-In-Conditions (DIC) commercial property and casualty insurance. DIC insurance is included within the Program definition of commercial property and casualty insurance. DIC insurance is reported by insurers on commercial lines of Statutory Page 14 included in the Program (see section 50.5(l)). DIC insurance policies generally provide coverage for certain risks not covered by other policies. The commenter suggested that DIC commercial property and casualty insurance should not be included in the Program. The commenter contended that the Act and section 50.23 mean that all underlying commercial property and casualty policies must provide for—and cannot exclude—insured losses caused by an act of terrorism, and thus DIC coverage will never be triggered.

Treasury does not agree. As stated above with regard to umbrella polices, the Act requires all insurers under the Program to make available commercial property and casualty coverage for insured losses under the Program. If the issuer of a DIC commercial property and casualty insurance policy is an insurer as defined under the Program, then the DIC insurer must comply with the requirements of the Act and Treasury's implementing regulations, including those concerning the make available requirements. Insurers can exclude coverage for insured losses if the policyholder declines or elects not to purchase the coverage. If a DIC insurer's policyholder declines or elects not to purchase terrorism risk insurance coverage in an underlying policy, the Act requires that the DIC insurer must make available terrorism risk insurance for insured losses as part of the DIC policy. As with umbrella policies, Treasury recognizes that certain provisions of the Act may not fit neatly within typical business practices of DIC insurers but it is Treasury's view that the commenter's concern is more appropriately addressed through DIC underwriting procedures, pricing or policy drafting. Thus, in the final rule, Treasury is making no change to section 50.21 to provide special treatment to DIC or umbrella insurance policies.

5. Limitations on Types of Risk (Section 50.23)

Section 103(c)(1)(B) of the Act provides that insurers under the Program ''shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.'' Sections 50.20 through 50.24 of the interim final rule reflect the statutory language and previously issued interim guidance. Section 50.23(b) addresses limitations on types of risk and provides that if an insurer does not cover all types of commercial property and casualty risks, then it is not required to cover the excluded risks in satisfying the make available requirements. For example, if an insurer does not cover all types of commercial property and casualty risk, either because the insurer is outside of direct State regulatory oversight, or because a State permits certain exclusions for certain types of losses, such as nuclear, biological, or chemical events, then the insurer is not required to make such coverage available. In addition, Section 50.24 addresses the applicability of State law.

A comment, submitted by a coalition of trade and professional associations expressed concern about the make available provisions in the interim final regulation. The commenter contended that the interim final rule's deference to State law exclusions for certain types of losses is not consistent with the purposes of the Act. The commenter also stated that the purpose of the Act was to put policyholders back to the level of coverage (or availability) that existed prior to September 11, 2001. Although acknowledging that whether a policyholder purchases terrorism risk insurance may be related to the price of the coverage, the commenter suggested that a lack of coverage for biological and chemical perils may adversely affect the policyholder's decision to purchase terrorism risk insurance.

After carefully considering the concerns expressed by the commenter and reviewing the purposes of the Act, Treasury is not making any change in the make available requirement as set forth in the interim final rule for the following reasons. First, it is Treasury's view that the make available requirement in the interim final rule, including the deference to state law exclusions, is fully consistent with the purposes of the Act. As stated in Section 101(b), the purposes of the Act include establishment of a temporary federal Program to ''allow for a transitional period for the private markets to stabilize, resume pricing of such insurance and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.'' In addition, other provisions of the Act, such as section 106, generally support narrow State law preemption, consistent with the McCarran Ferguson Act. Moreover, throughout the implementation process, Treasury has followed Congress's direction to consult with the NAIC, and in that regard, has relied to the greatest extent possible on the existing State regulatory structure for this temporary Program.

Second, based on information provided by the NAIC, it is Treasury's understanding that, even prior to September 11, 2001, insurers offered limited coverage for nuclear reaction or radiation or radioactive contamination, however caused, in commercial property and casualty insurance. In addition, deference to existing State law as it relates to the make available requirement does not mean that all losses associated with a nuclear, biological or chemical event would be excluded under the Program. Even with State exclusions, there may be commercial property and casualty insurance coverage in certain circumstances for certain biological, chemical or nuclear events. Moreover, the make available requirements in the interim final rule do not limit an insurer's ability to provide coverage for nuclear, biological, or chemical exposures as part of the Program, if the insurer chooses to offer such coverage. If an insurer provided such coverage in a commercial property and casualty policy, and met its insurer deductible and other conditions for federal payment, the insurer would receive federal payment under the Program for a claim filed based on that policy.

Third, the availability of terrorism risk insurance is affected by the affordability of such insurance. Neither the Act nor the Program mandates particular pricing. Therefore even if the ''make available'' requirement were applied in markets where exclusions are permitted, insurers would be able to price the coverage as appropriate, within any constraints, if any, imposed by the particular State. In such cases, if insurers believed they had insufficient capacity or that they lacked the ability to adequately evaluate the risks associated with a nuclear, biological, or chemical event, the corresponding price for such coverage along with the overall price for terrorism coverage could remain relatively high as insurers sought to build greater capacity and to account for greater uncertainty associated with these types of events.

III. Procedural Requirements

The Act established a Program to provide for loss sharing payments by the Federal Government for insured losses resulting from certified acts of terrorism. The Act became effective immediately

upon the date of enactment (November 26, 2002). Preemptions of terrorism risk exclusions in policies, mandatory participation provisions, disclosure and other requirements, and conditions for federal payment contained in the Act applied immediately to those entities that came within the Act's definition of ''insurer.''

The disclosure requirements are statutory conditions for federal payment under the Program. The disclosure requirements were effective immediately upon enactment and remain ongoing requirements that apply to new and renewed policies throughout the life of the Program. In the event of an act of terrorism resulting in insured losses under the Program, insurers must certify, and Treasury must ascertain, that these disclosure requirements have been met before federal payment is made. Similarly, the make available requirements are important elements of the Act. These requirements were effective immediately upon enactment and applied to policies in effect at that time. The make available requirements will continue to apply to new and renewed policies through the end of 2004 (and if the requirements are extended by the Secretary, through 2005). Given the significance of the disclosure and make available requirements to policyholders and insurers, there is an urgent need to issue immediately effective regulations. This includes the need to clarify, as necessary, the previously issued interim final rule. Moreover, because the changes are in the nature of clarifications, there should be no operational impact on insurers and no need for a delayed effective date.

Accordingly, pursuant to 5 U.S.C. 553(d)(3), Treasury has determined that there is good cause for this final rule to become effective immediately upon publication.

This final rule is a significant regulatory action and has been reviewed by the Office of Management and Budget under the terms of Executive Order 12866.

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. The Act requires all licensed or admitted insurers to participate in the Program. This includes all insurers regardless of size or sophistication. The Act also defines property and casualty insurance without any reference to the size or scope of the commercial entity. The disclosure and make available requirements are required by the Act. The final rule allows all insurers, whether large or small, to use existing systems and business practices to demonstrate compliance. Accordingly, any economic impact associated with the final rule flows from the Act and not the final rule. However, the Act and the Program are intended to provide benefits to the U.S. economy and all businesses, including small businesses, by providing a federal reinsurance backstop to commercial property and casualty insurers and their policyholders and by spreading the risk of insured loss resulting from an act of terrorism.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

■ For the reasons set forth above, the interim final rule amending Subparts B and C of 31 CFR Part 50, which was published at 68 FR 19302 on April 18, 2003, is adopted as a final rule with the following changes:

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 1. The authority citation for 31 CFR Part 50 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322 (15 U.S.C. 6701 note).

■ 2. Section 50.12(d) of Subpart B is revised to read as follows:

§ 50.12 Clear and conspicuous disclosure.

* * * * *

(d) *Use of producer.* If an insurer normally communicates with a policyholder through an insurance producer or other intermediary, an insurer may provide disclosures through such producer or other intermediary. If an insurer elects to make the disclosures through an insurance producer or other intermediary, the insurer remains responsible for ensuring that the disclosures are provided by the insurance producer or other intermediary to policyholders in accordance with the Act.

* * * * *

■ 3. Section 50.14 of Subpart B is revised to read as follows:

§ 50.14 Separate line item.

An insurer is deemed to be in compliance with the requirement of providing disclosure on a ''separate line item in the policy'' under § 50.10(d) if the insurer makes the disclosure:

(a) On the declarations page of the policy;

(b) Elsewhere within the policy itself; or

(c) In any rider or endorsement, or other document that is made a part of the policy.

■ 4. Section 50.18(b)(2) of Subpart B is revised to read as follows:

§ 50.18 Disclosure required by reinstatement provision

* * * * *

(b) * * *

(2) The insurer provided notice at least 30 days before any such reinstatement of the increased premium for such terrorism coverage and the rights of the insured with respect to such coverage, including the date upon which the exclusion would be reinstated if no payment is received, and the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage.

■ 5. Section 50.21(a) of Subpart C is revised to read as follows:

§ 50.21 Make available.

(a) *General.* The requirement to make available coverage as provided in § 50.20 applies to policies in existence on November 26, 2002, new policies issued and renewals of existing policies during the period beginning on November 26, 2002 and ending on December 31, 2004 (the last day of Program Year 2), and if the requirement is extended by the Secretary, to new policies issued and renewals of existing policies in Program Year 3 (calendar year 2005). The requirement applies at the time an insurer makes the initial offer of coverage as well as at the time an insurer makes an initial offer of renewal of an existing policy.

* * * * *

Dated: October 1, 2003.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 03–26251 Filed 10–16–03; 8:45 am]

BILLING CODE 4811–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–270]

RIN 1625–AA00

Safety Zone; Wisconsin Central Rail Road Bridge Fox River, Green Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on

the East side of the channel of the Wisconsin Central Rail Road Bridge at mile 2.61 Fox River. The east side of the channel will be closed to all vessel traffic. The rule is necessary to prevent vessels from transiting too close to the potentially unstable bridge. This rule is intended to restrict vessel traffic from a portion of Fox River mile 2.61, Green Bay, Wisconsin.

DATES: This rule is effective from October 1, 2003 until 11:59 p.m. December 1, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD09–03–270] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. (CST) and 3:30 p.m. (CST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Michael Schmidtke, Marine Safety Office Milwaukee, (414) 747–7155.

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) and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Due to a recent fire on the bridge, delaying this rule would be contrary to the public interest of ensuring the safety of those transiting the Fox River. This rule also ensures that any interested spectators do not accidentally place themselves in danger should any problems occur. As such, immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This Safety Zone is established to safeguard the public until the bridge is deemed safe and structurally sound. The size of the zone was determined by the necessities of safe navigation in the Captain of the Port zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone is effective from October 1, 2003 until 11:59 p.m. December 1, 2003. This rule will be enforced until the bridge is deemed safe and structurally sound.

Discussion of Rule

The Coast Guard will implement a safety zone on the East side of the channel of the Wisconsin Central Rail Road Bridge at mile 2.61 Fox River. The east side of the channel will be closed to all vessel traffic. The purpose of the safety zone is to protect the public from transiting too close to the unstable bridge. The safety zone will remain in place until the bridge is deemed safe and structurally sound. In addition, the Coast Guard will notify the public, in advance, by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Milwaukee, by facsimile (fax).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on-scene representative. Entry into, transiting through, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

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. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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.

This rule will affect the following entities: the owners or operators of vessels intending to transit the east side of the channel of the Fox River mile 2.61 from October 1, 2003 until 11:59 p.m. December 1, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced to safeguard the boating public. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on-scene representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **ADDRESSES.**)

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would 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 affect 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2. of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Commandant Instruction M16475.1D, from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–270 is added to read as follows:

§ 165.T09–270 Safety Zone; Wisconsin Central Bridge Fox River mile 2.61, Green Bay, WI.

(a) *Location.* The following area is designated a safety zone: the eastern side of the channel of the Wisconsin Central Rail Road Bridge at mile 2.61 on the Fox River. The east side of the channel will be closed to all vessel traffic, Green Bay, WI.

(b) *Effective Time and Date.* This rule is effective from October 1, 2003 until 11:59 p.m. December 1, 2003.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene representative. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely affect shipping. However, commercial vessels must request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: September 16, 2003.

H.M. Hamilton,

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

[FR Doc. 03–26304 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AL34

Veterans Education: Independent Study Approved for Certificate Programs and Other Miscellaneous Issues

AGENCIES: Department of Defense, Department of Homeland Security (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Veterans Education and Benefits Expansion Act of 2001 allows payment of Montgomery GI Bill—Selected Reserve (MGIB–SR) benefits for accredited independent study courses that lead to a certificate that reflects educational attainment. The certificate must be offered by an institution of higher learning. The Department of Veterans Affairs (VA) can provide MGIB–SR benefits for enrollments on or after December 27, 2001, in these independent study courses. We are also making changes in regulations in accordance with The National Defense Authorization Act for Fiscal Year 1998. The Act removed the language ''in connection with the Persian Gulf War'' and ''during the Persian Gulf War'' from certain sections in title 10, United States Code, regarding preservation of entitlement to MGIB–SR benefits for Selected Reserve members ordered to active duty in support of contingency operations. We are amending our regulations to reflect the statutory

changes. Since these changes are nothing more than restatements of statutes, they do not require notice and comment under 5 U.S.C. 553.

DATES: *Effective Date:* This final rule is effective October 17, 2003.

Applicability Dates. The revisions to the various sections of the Code of Federal Regulations amended in this final rule are applied retroactively to conform to the effective date of the underlying statutory provisions. See **SUPPLEMENTARY INFORMATION** for further information about applicability dates.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn M. Cossette, Education Advisor (225C), Education Service, Veterans Benefit Administration, 810 Vermont Avenue, NW., Washington, DC, (202) 273–7294.

SUPPLEMENTARY INFORMATION: Before enactment of the Veterans Education and Benefits Expansion Act of 2001 (''Act''), VA could provide Montgomery GI Bill—Selected Reserve (MGIB–SR) benefits for independent study only when the independent study course was accredited and a part of a standard college degree program. The Act now allows VA to provide MGIB–SR benefits for accredited independent study courses that lead to a certificate that reflects educational attainment. This provision applies only to certificate programs offered by institutions of higher learning and for enrollments after December 26, 2001. We revised our regulations to reflect this change.

We are further revising regulations to comply with changes in title 10, U.S.C. The National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85) removed the language ''during the Persian Gulf War'' from section 16133(b)(4), title 10, United States Code (U.S.C.). By removing the language, Selected Reserve members ordered to active duty in support of contingency operations, not just in support of the Persian Gulf War, became eligible for the extension of their eligibility period. We revised our regulations to comply with the Act, and the language in title 10, U.S.C.

In addition, the Act removed ''during the Persian Gulf War'' from section 16131(c)(3)(B)(i), title 10, U.S.C. Section 16131(c)(3)(B)(i) restores MGIB–SR entitlement to Selected Reserve members who discontinue their education course(s) due to being ordered to active duty in support of contingency operations. By removing the language ''in connection with the Persian Gulf War,'' Selected Reserve members who are ordered to active duty in support of contingency operations, not just in support of the Persian Gulf War, are eligible for restoration of entitlement. Generally, most individuals are eligible for 36 months of full-time MGIB–SR benefits. We refer to the 36 months of benefits as 36 months of ''entitlement''. For each day of full-time benefits that we pay, we deduct 1 day of entitlement. If an individual is called to active duty as indicated above, and has to withdraw from his or her course(s), VA will pay benefits up to the date of withdrawal. Under these circumstances, however, we will not deduct any entitlement if the individual received no credit for the course(s). For example, if an individual started a course with 36 months of benefits available and we paid for 2 months of benefits before the individual discontinued the course, we would charge 2 months of entitlement, leaving the individual 34 months of benefits remaining. Under restoration of entitlement provisions, we give back the 2 months of entitlement. So, although the individual received benefits for 2 months, he or she has the same amount of benefits remaining as before the course started. We are revising the pertinent regulations to make them conform to the Act.

Moreover, the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261), amended a provision affecting the eligibility period for certain Selected Reserve members. Generally, a Selected Reserve member's eligibility period ends when the member leaves the Selected Reserves. Before enactment of Pub. L. 105–261, if an individual ceased to be a member of the Selected Reserves because his or her unit was deactivated, or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 10143(a) of title 10, U.S.C., eligibility could continue beyond the separation date. To qualify, the member must have been involuntarily released during the period beginning October 1, 1991, and ending September 30, 1999. Pub. L. 105–261 extended the ending date from September 30, 1999 to September 30, 2001. Subsequently, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) extended the ending date from September 30, 2001 to December 31, 2001. However, we did not update our regulations to reflect the change made by Pub. L. 105–261. We are amending our regulations to reflect the most recent legislation, Pub. L. 106–398.

Since the changes we made merely restate statutes, we are publishing this rule as a final rule without a comment period.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule would have no such effect on State, local, or tribal governments, or the private sector.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs, the Secretary of Defense, and the Commandant of the Coast Guard hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

Lists of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interest, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 14, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

Approved: June 5, 2003.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

Approved: August 4, 2003.

Charles S. Abell,

Principal Deputy Under Secretary (Personnel and Readiness), Department of Defense.

■ For reasons set out in the preamble, 38 CFR part 21 (subpart L) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

■ 1. The authority citation for part 21, subpart L, continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

■ 2. Section 21.7540 is amended by:
■ a. Revising paragraph (b)(3)(iii).
■ b. Redesignating paragraphs (b)(3)(iv), (b)(3)(v), (b)(3)(vi), and (b)(3)(vii) as paragraphs (b)(3)(v), (b)(3)(vi), (b)(3)(vii), and (b)(3)(viii), respectively.
■ c. Adding a new paragraph (b)(3)(iv).
■ d. Revising the authority citation at the end of paragraph (b)(3).

The revisions and addition read as follows:

§ 21.7540 Eligibility for educational assistance.

* * * * *

(b) * * *

(3) * * *

(iii) An accredited independent study course leading to a standard college degree. (See § 21.7622(f) concerning enrollment in a nonaccredited independent study course after October 28, 1992);

(iv) An accredited independent study course leading to a certificate that reflects educational attainment from an institution of higher learning. This provision applies to enrollment in an independent study course that begins on or after December 27, 2001. (See § 21.7622(f) concerning enrollment in a nonaccredited independent study course after October 28, 1992);

* * * * *

(Authority: 10 U.S.C. 16131, 16132, 16136; sec. 705(a)(1), Pub. L. 98–525, 98 Stat. 2565, 2567; 38 U.S.C. 3680A)

* * * * *

■ 3. Section 21.7550 is amended by:
■ a. Revising paragraph (a)(3) and the authority citation at the end of the paragraph.
■ b. In paragraph (d)(1), removing ''September 30, 1999,'' and adding, in its place, ''December 31, 2001,''.

The revision reads as follows:

§ 21.7550 Ending dates of eligibility.

(a) * * *

(3) If the reservist serves on active duty pursuant to an order to active duty issued under sections 12301(a),(d),(g), 12302, or 12304 of title 10, U.S. Code, the period of this active duty plus 4 months shall not be considered in determining the time limit on eligibility found in paragraphs (a)(1) and (a)(2) of this section.

(Authority: 10 U.S.C. 16133)

* * * * *

■ 4. Section 21.7576 is amended by revising paragraph (e)(1)(i) and the authority citation at the end of paragraph (e) to read as follows:

§ 21.7576 Entitlement charges.

* * * * *

(e) * * *

(1) * * *

(i) While not serving on active duty, had to discontinue pursuit of a course or courses as a result of being ordered to serve on active duty under sections 12301(a),(d),(g), 12302, or 12304 of title 10, U. S. Code; and

* * * * *

(Authority: 10 U.S.C. 16131(c)(3))

■ 5. Section 21.7620 is amended by revising paragraph (c)(2) to read as follows:

§ 21.7620 Courses included in programs of education.

* * * * *

(c) * * *

(2) Only a reservist who meets the requirements of § 21.7540(b)(1) may be paid educational assistance for an enrollment in an independent study course or unit subject without a simultaneous enrollment in a course or unit subject offered by resident training. The independent study course or unit subject must be accredited and lead to a standard college degree. Beginning with enrollments on or after December 27, 2001, a reservist may receive educational assistance for an independent study course that leads to a certificate. The certificate must reflect educational attainment and must be offered by an institution of higher learning.

(Authority: 38 U.S.C. 3680A(a)(4))

* * * * *

[FR Doc. 03–26254 Filed 10–16–03; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Revised Format for Pressure-Sensitive Presort Destination Package Labels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the *Domestic Mail Manual* (DMM) standards adopted by the Postal Service to implement the use of redesigned pressure-sensitive package labels. The redesigned labels—similar to the current labels that mailers affix to the top mailpiece in packages of mailpieces (bundles of individual mailpieces secured together) instead of using optional endorsement lines (OELs)—will continue to indicate the presort level of all the pieces banded into individual presort destination packages.

The redesigned pressure-sensitive package labels will support the deployment of a new system, designated as the Automated Package Processing System (APPS), that will extend the benefits of automated handling to the processing of small, lightweight parcels and flat-size pieces such as magazines and catalogs prepared in packages (several mailpieces presorted and secured together into a single unit).

Mailers may begin affixing the new labels starting on October 16, 2003. Mailers using the current nonbarcoded pressure-sensitive labels may continue using those labels until April 1, 2004.

EFFECTIVE DATE: This final rule takes effect on October 30, 2003.

FOR FURTHER INFORMATION CONTACT: Neil Berger at (703) 292–3645, Mailing Standards, U.S. Postal Service; or Jamie Gallagher at (202) 268–4031, P&DC Operations, U.S. Postal Service.

SUPPLEMENTARY INFORMATION: On August 18, 2003, the Postal Service published a proposed rule in the **Federal Register** (68 FR 49396–49406) that contained minor changes to mailing standards in the *Domestic Mail Manual* (DMM) to implement the use of reformatted pressure-sensitive presort destination package labels. In that proposed rule, the Postal Service also requested comments from the public and the mailing industry. No comments were received on the proposed rule.

As explained in the proposed rule, the new barcoded pressure-sensitive package labels would be one method to support the use of the APPS, which the Postal Service plans to deploy beginning in 2004 in major processing and distribution centers to improve operational efficiency and increase workhour productivity.

The use of these new labels will have no significant effect on mail preparation standards and processes or on current mailer operations, especially mailer operations using optional endorsement lines (OELs) for designating the presort level of packages containing letter-size pieces or flat-size pieces. This change will not replace OELs. In fact, mailers currently using OELs should continue using these cost-effective, time saving information lines rather than converting to the use of pressure-sensitive package labels.

For the reasons presented in the proposed rule and those noted above in this final rule, the Postal Service adopts the following changes in the Domestic Mail Manual, which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

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

Domestic Mail Manual (DMM)

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

* * * * *

M020 Packages

1.0 BASIC STANDARDS

* * * * *

1.3 Labeling

[Revise 1.3 to read as follows:]

Unless excepted by standard, the presort level of each package (other than carrier route packages) must be identified either with an optional endorsement line under M013 or with a barcoded pressure-sensitive package label. On letter-size mail (including card-size pieces), the package label must be placed in the lower left corner of the address side of the top piece in the package. On flat-size mail, the label may be placed anywhere on the address side of the top piece in the package. Package labels must not be obscured by banding or shrinkwrap. The following colors and presort characters apply to package labels (nonbarcoded labels, including red Label D and tan Label MXD, may be used until April 1, 2004):

a. Firm (Periodicals use only), blue Label F.

b. Five-digit presort level, red Label 5 or red Label D.

c. Three-digit presort level, green Label 3.

d. ADC presort level, pink Label A.

e. Mixed ADC presort level, tan Label X or tan Label MXD.

* * * * *

M030 Containers

M031 Labels

1.0 SACK AND TRAY LABELS

* * * * *

[Revise heading of 1.2 to read as follows:]

1.2 Line 1 (Destination Line)

[Revise 1.2 to read as follows:]

Line 1 (destination line) must meet these standards:

a. Placement. Line 1 must be the first visible line on the label. It must be completely visible and legible when placed in the label holder. This visibility is ensured if the top of this line is no less than 1/8 (0.125) inch below the top of the label when the label is cut and prepared.

b. Information. Line 1 must contain only the information specified by standard, including the appropriate destination facility prefix (*e.g.*, ''ADC''). Two zeros may follow the 3-digit ZIP Code prefix required by labeling standards (*e.g.*, 223 as 22300).

c. Overseas Military Mail. On 5-digit sacks and trays for overseas military destinations, Line 1 shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail in the sack or tray.

[Revise heading of 1.3 to read as follows:]

1.3 Line 2 (Content Line)

* * * * *

[Revise heading of 1.4 to read as follows:]

1.4 Line 3 (Origin Line)

* * * * *

4.0 PALLET LABELS

* * * * *

[Revise heading of 4.5 to read as follows:]

4.5 Line 1 (Destination Line)

[Revise 4.5 to read as follows:]

Line 1 (destination line) must meet these standards:

a. Placement. Line 1 must be the first visible line on the label. It must be completely visible and legible when placed on the pallet. If the pallet label does not provide enough space for all required Line 1 information, the destination ZIP Code may be placed right-justified on the line immediately below the rest of Line 1 and above Line 2 (content line). A standard abbreviation for the destination city name may be used.

b. Information. Line 1 must contain only the information specified by standard, including the appropriate destination facility prefix (*e.g.*, ''ADC''). Two zeros may follow the 3-digit ZIP Code prefix required by labeling standards (*e.g.*, 223 as 22300).

c. Overseas Military Mail. On 5-digit pallets for overseas military destinations, Line 1 shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail on the pallet.

[Revise heading of 4.6 to read as follows:]

4.6 Line 2 (Content Line)

* * * * *

[Revise heading of 4.7 to read as follows:]

4.7 Line 3 (Origin Line)

* * * * *

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

* * * * *

[Revise heading of 1.2 to read as follows:]

1.2 Line 1 (Destination Line)

* * * * *

[Revise 1.2c to read as follows:]

c. Overseas Military Mail. On 5-digit sacks and trays for overseas military destinations, Line 1 shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail in the sack or tray.

[Revise heading of 1.3 to read as follows:]

1.3 Line 2 (Content Line)

* * * * *

[Change ''STD MACH & IRREG 5D'' to ''STD MACH-IRREG 5D'' in Exhibit 1.3 to read as follows:]

Class and mailing	CIN	Human-readable content line
* * * * * * *		
Standard Mail:		
* * * * * * *		
STD Machinable and Irregular Parcels—Presorted:		
5-digit sacks	603	STD MACH-IRREG 5D
* * * * * * *		

[Revise heading of 1.4 to read as follows:]

1.4 Line 3 (Origin Line)

* * * * *

M070 Mixed Classes

* * * * *

M073 Combined Mailings of Standard Mail and Package Services Parcels

1.0 COMBINED MACHINABLE PARCELS—RATES OTHER THAN PARCEL POST OBMC PRESORT, BMC PRESORT, DSCF, AND DDU

* * * * *

[Revise heading of 1.6 to read as follows:]

1.6 Sacking and Labeling

[Revise 1.6 to read as follows:]

Preparation sequence, sack size, and labeling:

a. 5-digit scheme (optional, but required for Standard Mail 3/5 rate eligibility); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L606.

(2) Line 2: ''STD/PSVC MACH 5D SCH.''

b. 5-digit (optional, but required for Standard Mail 3/5 rate eligibility); 10-piece or 20-pound minimum; labeling:

(1) Line 1: 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''STD/PSVC MACH 5D.''

c. ASF (optional; allowed only for mail deposited at an ASF to claim DBMC rate); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L602. DBMC rate eligibility determined by Exhibit E650.5.1 and Exhibit E751.1.3.

(2) Line 2: ''STD/PSVC MACH ASF.''

d. BMC (required); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L601. DBMC rate eligibility determined by Exhibit E650.5.1 and Exhibit E751.1.3.

(2) Line 2: ''STD/PSVC MACH BMC.''

e. Mixed BMC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by L601 Column B information for BMC serving 3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''STD/PSVC MACH WKG.''

* * * * *

M100 First-Class Mail (Nonautomation)

* * * * *

M130 Presorted First-Class Mail

* * * * *

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Traying and Labeling

[Revise 2.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (optional); full trays (no overflow); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''FCM LTR 5D MACH.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM LTR 3D MACH.''

c. AADC (required); full trays (no overflow), with pieces grouped by 3-digit ZIP Code prefix; labeling:

(1) Line 1: L801.

(2) Line 2: ''FCM LTR AADC MACH.''

d. Mixed AADC (required); no minimum, with pieces grouped by AADC; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry office, as shown in L002, Column C.

(2) Line 2: ''FMC LTR MACH WKG.''

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

[Revise heading of 3.1 to read as follows:]

3.1 Packaging and Labeling

[Revise 3.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Mailers who prefer that the USPS not automate letter-size pieces must also identify each package with a facing slip marked ''MANUAL ONLY'' or use a ''MANUAL ONLY'' optional endorsement line (see M013).

Preparation sequence, package size, and labeling:

[Change in 3.1a ''red Label D'' to ''red Label 5''; change in 3.1d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL); labeling not required for pieces in full 5-digit trays.

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Delete current 3.2 and redesignate current 3.3 as new 3.2; revise heading of new 3.2 to read as follows:]

3.2 Traying and Labeling

[Revise 3.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (required); full trays (no overflow); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''FCM LTR 5D MANUAL.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM LTR 3D MANUAL.''

c. ADC (required); full trays (no overflow); labeling:

(1) Line 1: L004.

(2) Line 2: ''FCM LTR ADC MANUAL.''

d. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MANUAL WKG.''

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES

[Revise heading of 4.1 to read as follows:]

4.1 Packaging and Labeling

[Revise 4.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Preparation sequence, package size, and labeling:

[Change in 4.1a ''red Label D'' to ''red Label 5''; change in 4.1d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Delete current 4.2 and redesignate current 4.3 as new 4.2; revise heading of new 4.2 to read as follows:]

4.2 Traying and Labeling

[Revise new 4.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (required); full trays (no overflow); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''FCM FLTS 5D NON BC.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM FLTS 3D NON BC.''

c. ADC (required); full trays (no overflow); labeling:

(1) Line 1: L004.

(2) Line 2: ''FCM FLTS ADC NON BC.''

d. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM FLTS NON BC WKG.''

[Delete current 4.4.]

[Revise heading of 5.0 to read as follows:]

5.0 PREPARATION—PARCELS

[Delete current 5.1 and redesignate current 5.2 as new 5.1; revise heading of new 5.1 to read as follows:]

5.1 Packaging and Labeling

[Revise introductory text of new 5.1 to read as follows] Packaging is generally required before sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required if the parcels are ½ inch thick or greater and placed in a sack to the same destination to which they would otherwise be packaged (*e.g.*, in a 3-digit sack rather than in a 3-digit package). Packaging is also not required if the parcels are so large that 10 or fewer fill a sack. Preparation sequence, package size, and labeling:

[Change in new 5.1a ''red Label D'' to ''red Label 5''; change in new 5.1d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Redesignate current 5.3 as new 5.2; revise heading of new 5.2 to read as follows:]

5.2 Sacking and Labeling

[Revise new 5.2 to read as follows:]

Preparation sequence, sack size, and labeling:

a. 5-digit (required); 10-pound minimum; labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''FCM PARCELS 5D.''

b. 3-digit (required); 10-pound minimum, except for required origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM PARCELS 3D.''

c. ADC (required); 10-pound minimum; labeling:

(1) Line 1: L004.

(2) Line 2: ''FCM PARCELS ADC.''

d. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM PARCELS WKG.''

[Delete current 5.4.]

* * * * *

M200 Periodicals (Nonautomation)

M210 Presorted Periodicals

* * * * *

2.0 PACKAGE PREPARATION

[Revise 2.0 by combining current 2.1 and 2.2 to read as follows:]

Packaging is required before traying or sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches the minimum package size. Smaller volumes are not permitted except mixed ADC packages and 5-digit and 3-digit packages prepared under 1.5. Packaging is also subject to M020. Preparation sequence, package size, and labeling:

[Change in 2.0b ''red Label D'' to ''red Label 5''; change in 2.0e ''tan Label MXD'' to ''tan Label X'' to read as follows:]

a. Firm (optional); two-piece minimum; blue Label F or optional endorsement line (OEL).

b. 5-digit (required); six-piece minimum; red Label 5 or OEL; package labeling optional for pieces in full 5-digit trays.

c. 3-digit (required); six-piece minimum; green Label 3 or OEL.

d. ADC (required); six-piece minimum; pink Label A or OEL.

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

[Revise heading of 3.0 to read as follows:]

3.0 TRAY PREPARATION—LETTER-SIZE PIECES

[Revise introductory text to read as follows:]

Preparation sequence, tray size, and labeling:

* * * * *

[Revise 3.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 SACK PREPARATION—FLAT-SIZE PIECES AND IRREGULAR PARCELS

[Revise second sentence in introductory text to read as follows:]

* * * For other mailing jobs, preparation sequence, tray size, and labeling:

* * * * *

[Revise 4.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

M220 Carrier Route Periodicals

* * * * *

2.0 PACKAGE PREPARATION

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Packaging and Labeling

[Revise 2.4 to read as follows:]

Preparation sequence, package size, and labeling:

a. Firm (optional); two-piece minimum; blue Label F or optional endorsement line (OEL).

b. Carrier route (optional, but required for rate eligibility); six-piece minimum (fewer pieces permitted under 1.5); labeling required (facing slip, OEL, or carrier route information line) except for packages placed in a carrier route tray or sack.

[Revise heading of 3.0 to read as follows:]

3.0 PREPARATION—LETTER-SIZE PIECES

3.1 Basic Preparation

[Revise introductory text to read as follows:]

Preparation sequence, tray size, and labeling:

* * * * *

[Revise 3.1a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES AND IRREGULAR PARCELS

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 4.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

* * * * *

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

* * * * *

2.2 Traying and Labeling

* * * * *

[Revise 2.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

[Revise heading of 3.1 to read as follows:]

3.1 Packaging and Labeling

[Revise introductory text of 3.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Mailers who prefer that the USPS not automate letter-size pieces must also identify each package with a facing slip marked ''MANUAL ONLY'' or use a ''MANUAL ONLY'' optional endorsement line (see M013).

Preparation sequence, package size, and labeling:

[Change in 3.1a ''red Label D'' to ''red Label 5''; change in 3.1d ''tan Label MXD'' to ''tan Label X''.]

[Delete current 3.2 and redesignate current 3.3 as new 3.2.]

3.2 Traying and Labeling

* * * * *

[Revise new 3.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise 4.0 by moving standards for irregular parcels to new 5.0; redesignate current 5.0 as new 6.0; revise current 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES

4.1 Required Packaging

Except as provided in 4.3, packaging is required before sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches the required minimum package size in 4.2. Smaller volumes are not permitted except for mixed ADC packages.

4.2 Packaging and Labeling

Preparation sequence, package size, and labeling:

a. 5-digit (required); 17-piece minimum, optional 10-to 16-piece minimum (one consistent minimum required for a mailing job); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

4.3 Loose Packing

District managers may authorize loose packing of unpackaged pieces to fill Number 3 sacks if no pieces in a sack would be more finely sorted if packaged. Pieces must be faced and packed to remain oriented in transit. The total weight of sacks containing such pieces may not exceed 70 pounds. Requests for loose packing must be made in advance through the post office of mailing.

4.4 Required Sacking

Except as provided in 4.5, a sack, or a letter tray under M033, must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, mailers must apply these methods:

(1) Pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum.

(2) Pieces weighing more than 1.92 ounces must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must apply either one of these methods:

(1) The minimum that applies to the average piece weight for the entire mailing is used. The net weight of the mailing is divided by the number of pieces, and the resulting average single-

piece weight is used to determine whether the 125-piece or 15-pound minimum applies.

(2) The actual piece count or mail weight for each sack is used, if documentation can be provided with the mailing that shows for each sack the number of pieces and the total weight.

c. The accompanying postage statement must indicate whether the 125-piece minimum, the 15-pound minimum, or both minimums are applied.

4.5 Drop Shipment

A mailer using Priority Mail or Express Mail to drop ship Standard Mail flat-size pieces may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

4.6 Sacking and Labeling

Preparation sequence, sack size, and labeling:

a. 5-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''STD FLTS 5D NON BC.''

b. 3-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD FLTS 3D NON BC.''

c. Origin 3-digit(s) (required) and entry 3-digit(s) (optional); one-package minimum (for origin or entry); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD FLTS 3D NON BC.''

d. ADC (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L004.

(2) Line 2: ''STD FLTS ADC NON BC.''

e. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office as shown in L004; if placed on an ASF or BMC pallet under option in M045.3.2, L802.

(2) Line 2: ''STD FLTS NON BC WKG.''

[Redesignate current 5.0 as new 6.0 and add new 5.0 to read as follows:]

5.0 PREPARATION—IRREGULAR PARCELS

5.1 Required Packaging

Except as provided in 5.3 and 5.5, packaging is required before sacking. A package must be prepared when the quantity of addressed irregular parcels for a required presort level reaches the required minimum package size. Smaller volumes are not permitted except for mixed ADC packages and packages prepared under 5.4.

5.2 Packaging and Labeling

Preparation sequence, package size, and labeling:

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

5.3 Packaging Exceptions

Packaging is not required for irregular parcels under any of these conditions:

a. The parcels are ½ inch thick or greater and placed in a sack to the same destination to which they would otherwise be packaged (*e.g.*, in a 3-digit sack rather than a 3-digit package).

b. The parcels are so large that 10 or fewer fill a sack.

c. The parcels are in a 5-digit scheme or 5-digit sack containing both machinable and irregular parcels. Sacks containing both machinable and irregular parcels may not be prepared to other presort levels.

5.4 Commingling Irregular Parcel Mailings

Business Mailer Support (BMS) (see G043 for address) may authorize the commingling of several permit imprint mailings of irregular parcels to achieve a finer presort if the payment of proper postage can be documented. BMS may waive minimum quantity standards for preparation of 5-digit and 3-digit presort destination packages if doing so results in a finer preparation of at least 50% of the mail.

5.5 Loose Packing

District managers may authorize loose packing of unpackaged irregular parcels to fill Number 3 sacks if no parcels in a sack would be more finely sorted if packaged. Parcels must be faced and packed to remain oriented in transit. The total weight of sacks containing such parcels may not exceed 70 pounds. Requests for loose packing must be made in advance through the post office of mailing.

5.6 Required Sacking

Except as provided in 5.7, a sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, mailers must apply these methods:

(1) Pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum.

(2) Pieces weighing more than 1.92 ounces must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must apply either one of these methods:

(1) The minimum that applies to the average piece weight for the entire mailing is used. The net weight of the mailing is divided by the number of pieces, and the resulting average single-piece weight is used to determine whether the 125-piece or 15-pound minimum applies.

(2) The actual piece count or mail weight for each sack is used, if documentation can be provided with the mailing that shows for each sack the number of pieces and the total weight.

c. The accompanying postage statement must indicate whether the 125-piece minimum, the 15-pound minimum, or both minimums are applied.

5.7 Drop Shipment

A mailer using Priority Mail or Express Mail to drop ship Standard Mail irregular parcels may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

5.8 Sacking and Labeling

Preparation sequence, sack size, and labeling:

a. 5-digit scheme (optional), as applicable:

(1) Irregular parcels: 125-piece or 15-pound minimum; labeling for Line 1, L606; for Line 2, ''STD IRREG 5D SCHEME'' or ''STD IRREG 5D SCH.''

(2) Commingled machinable and irregular parcels: no minimum; labeling for Line 1, L606; for Line 2, ''STD MACH–IRREG 5D SCH.''

b. 5-digit (required), as applicable:

(1) Irregular parcels: 125-piece or 15-pound minimum; labeling for Line 1, city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail); for Line 2, ''STD IRREG 5D.''

(2) Commingled machinable and irregular parcels: 10-pound minimum; labeling for Line 1, city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail); for Line 2, ''STD MACH–IRREG 5D.''

c. 3-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD IRREG 3D.''

d. Origin 3-digit(s) (required) and entry 3-digit(s) (optional); one-package minimum (for origin or entry); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD IRREG 3D.''

e. ADC (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L603.

(2) Line 2: ''STD IRREG ADC.''

f. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office as shown in L604.

(2) Line 2: ''STD IRREG WKG.''

6.0 PREPARATION—MACHINABLE PARCELS

6.1 5-Digit Sacks

[Change at end of first sentence in 6.1 ''under 4.0'' to ''under 5.0.'')

* * * * *

[Revise heading of redesignated 6.2 to read as follows:]

6.2 Sacking and Labeling

* * * * *

M620 Enhanced Carrier Route Standard Mail

* * * * *

3.0 PREPARATION—LETTER-SIZE PIECES

3.1 Required Tray Preparation

Preparation sequence, tray size, and labeling

* * * * *

[Revise 3.1a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise 3.1b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise 3.1c(1) to read as follows:]

(1) Line 1: city, state, and 3-digit ZIP Code prefix shown in L002, Column A, that corresponds to 3-digit ZIP Code prefix on mail.

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Alternative Line 2 Information

[Revise 3.2 to read as follows:]

For trays containing nonbarcoded or nonmachinable letter-size pieces, these Line 2 label designations are used in place of ''BC'':

a. Trays containing nonbarcoded machinable pieces: ''MACH.''

b. Trays containing nonmachinable pieces: ''MAN.''

c. Trays containing simplified address pieces: ''MAN.''

[Delete current 3.3 and 3.4.]

4.0 PREPARATION—FLATS

* * * * *

4.2 Sack Preparation

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 4.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise 4.2c(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

5.0 PREPARATION—IRREGULAR PARCELS

* * * * *

5.2 Sack Preparation

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 5.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise 5.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

M700 Package Services

M710 Parcel Post

* * * * *

2.0 DSCF RATE

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Sacking and Labeling

* * * * *

[Revise 2.2d to read as follows:]

d. 5-digit sack labeling: Line 1, use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail); for Line 2, ''PSVC PARCELS 5D.''

* * * * *

3.0 DDU RATE

The requirements for the DDU rate are as follows:

* * * * *

[Revise 3.0e to read as follows:]

e. Sacked mail must be labeled as follows:

(1) 5-digit scheme: Line 1, L606; Line 2, ''PSVC PARCELS 5D SCH.''

(2) 5-digit: Line 1, city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail); Line 2, ''PSVC PARCELS 5D.''

* * * * *

M720 Bound Printed Matter

* * * * *

M722 Presorted Bound Printed Matter

* * * * *

[Revise heading of 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Required Packaging

[Add sentence to beginning of 2.1 to read as follows:]

Packaging is required before sacking.* * *

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 to read as follows:]

Preparation sequence and labeling:

a. 5-digit (required); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); green Label 3 or OEL.

c. ADC (required); pink Label A or OEL.

d. Mixed ADC (required); tan Label X or OEL.

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise 2.4 to read as follows:]

Preparation sequence and labeling:

a. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC FLTS SCF NON BC.''

d. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

e. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Delete current 2.5.]

[Revise heading of 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS WEIGHING LESS THAN 10 POUNDS

3.1 Required Packaging

[Revise first sentence of 3.1 to read as follows:]

Packaging is required before sacking, except for pieces placed in 5-digit scheme and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package size is met.* * *

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 to read as follows:]

Preparation sequence and labeling:

a. 5-digit (required); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); green Label 3 or OEL.

c. ADC (required); pink Label A or OEL.

d. Mixed ADC (required); tan Label X or OEL.

3.3 Required Sacking

[Revise 3.3 by adding current 3.6 before last sentence of introductory text to read as follows:]

* * * Sacking is not required for 5-digit packages when prepared for and entered at DDU rates. Such packages may be bedloaded and may weigh up to 40 pounds.* * *

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise 3.4 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC IRREG SCF.''

e. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC IRREG ADC.''

f. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC IRREG WKG.''

[Delete current 3.5 and 3.6.]

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—IRREGULAR PARCELS WEIGHING 10 POUNDS OR MORE

* * * * *

4.2 Required Sacking

[Revise 4.2 by adding amended 4.5 to end of 4.2 to read as follows:]

* * * Sacking is not required for 5-digit packages when prepared for and entered at DDU rates. Such packages may be bedloaded and may weigh up to 40 pounds.

[Revise heading of 4.3 to read as follows:]

4.3 Sacking and Labeling

[Revise 4.3 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC IRREG SCF.''

e. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC IRREG ADC.''

f. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC IRREG WKG.''

[Delete current 4.4 and 4.5.]

[Revise heading of 5.0 to read as follows:]

5.0 PREPARATION—MACHINABLE PARCELS

[Revise heading of 5.1 to read as follows:]

5.1 DBMC Rates Not Claimed—Required Sacking

* * * * *

[Revise heading of 5.2 to read as follows:]

5.2 DBMC Rates Not Claimed—Sacking and Labeling

[Revise 5.2 by combining with current 5.3 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''PSVC MACH 5D.''

c. BMC (required); labeling:

(1) Line 1: L601.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC (required); labeling:

(1) Line 1: ''MXD'' followed by L601, Column B, information for BMC serving 3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

[Redesignate current 5.4 and 5.5 as new 5.3 and 5.4, respectively.]

[Revise heading of new 5.3 to read as follows:]

5.3 DMBC Rates—Required Sacking

* * * * *

[Revise heading of new 5.4 to read as follows:]

5.4 DBMC Rates—Sacking and Labeling

[Revise new 5.4 by combining with current 5.6 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''PSVC MACH 5D.''

c. ASF (optional, allowed only for mail deposited at an ASF to claim DBMC rate); labeling:

(1) Line 1: L602. DBMC rate eligibility determined by E752 and Exhibit E751.1.3.

(2) Line 2: ''PSVC MACH ASF.''

d. BMC (required); labeling:

(1) Line 1: L601. DBMC rate eligibility determined by E752 and Exhibit E751.1.3.

(2) Line 2: ''PSVC MACH BMC.''

e. Mixed BMC (required); labeling:

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

[Delete current 5.6.]

M723 Carrier Route Bound Printed Matter

* * * * *

[Revise heading of 2.0 to read as follows:]

2.0 PREPARATION—FLATS

* * * * *

2.3 Sack Preparation

* * * * *

[Revise 2.3a to read as follows:]

a. Carrier route: required; for Line 1, use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise heading of 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS WEIGHING LESS THAN 10 POUNDS

* * * * *

3.3 Sack Preparation

* * * * *

[Revise 3.3a to read as follows:]

a. Carrier route: required; for Line 1, use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—IRREGULAR PARCELS WEIGHING 10 POUNDS OR MORE

* * * * *

[Revise heading of 5.0 to read as follows:]

5.0 PREPARATION—MACHINABLE PARCELS

* * * * *

M730 Media Mail

* * * * *

2.0 PREPARATION—FLATS

[Revise heading of 2.1 to read as follows:]

2.1 Required Packaging

[Revise second sentence in 2.1 to read as follows:]

* * * Smaller volumes are not permitted except for mixed ADC packages.* * *

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 and change in 2.2a ''red Label D'' to ''red Label 5'' and in 2.2d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Revise heading of 2.3 to read as follows:]

2.3 Required Sacking

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise introductory text of 2.4 to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 2.4a(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—IRREGULAR PARCELS

[Revise heading of 3.1 to read as follows:]

3.1 Required Packaging

[Replace first sentence of 3.1 with following text to read as follows:]

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met.* * *

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 and change in 3.2a ''red Label D'' to ''red Label 5'' and in 3.2d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Revise heading of 3.3 to read as follows:]

3.3 Required Sacking

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 3.4b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

4.0 PREPARATION—MACHINABLE PARCELS

[Revise heading of 4.1 to read as follows:]

4.1 Required Sacking

* * * * *

[Revise heading of 4.2 to read as follows:]

4.2 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

M740 Library Mail

* * * * *

2.0 PREPARATION—FLATS

[Revise heading of 2.1 to read as follows:]

2.1 Required Packaging

[Revise second sentence in 2.1 to read as follows:]

* * * Smaller volumes are not permitted except for mixed ADC packages.* * *

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 and change in 2.2a ''red Label D'' to ''red Label 5'' and in 2.2d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Revise heading of 2.3 to read as follows:]

2.3 Required Sacking

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 2.4a(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—IRREGULAR PARCELS

[Revise heading of 3.1 to read as follows:]

3.1 Required Packaging

[Replace first sentence of 3.1 with following text to read as follows:]

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met.* * *

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 and change in 3.2a ''red Label D'' to ''red Label 5'' and in 3.2d ''tan Label MXD'' to ''tan Label X'' to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

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

[Revise heading of 3.3 to read as follows:]

3.3 Required Sacking

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 3.4b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

4.0 PREPARATION—MACHINABLE PARCELS

[Revise heading of 4.1 to read as follows:]

4.1 Required Sacking

* * * * *

[Revise heading of 4.2 to read as follows:]

4.2 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

* * * * *

2.0 FIRST-CLASS MAIL—REQUIRED PACKAGE-BASED PREPARATION

[Revise heading of 2.1 to read as follows:]

2.1 Packaging and Labeling

[Change in 2.1a ''red Label D'' to ''red Label 5''; change in 2.1d ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 2.2 to read as follows:]

2.2 Traying and Labeling

* * * * *

[Revise 2.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M032 for overseas military mail).

* * * * *

4.0 PERIODICALS

[Revise heading of 4.1 to read as follows:]

4.1 Packaging and Labeling

[Change in 4.1b ''red Label D'' to ''red Label 5''; change in 4.1e ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 4.2 to read as follows:]

4.2 Sacking and Labeling

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M032 for overseas military mail).

* * * * *

5.0 STANDARD MAIL

[Revise heading of 5.1 to read as follows:]

5.1 Packaging and Labeling

[Change in 5.1b(1) and 5.1b(2) ''red Label D'' to ''red Label 5''; change in 5.1e ''tan Label MXD'' to ''tan Label X''.]

* * * * *

[Revise heading of 5.3 to read as follows:]

5.3 Sacking and Labeling

* * * * *

[Revise 5.3b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M032 for overseas military mail).

* * * * *

6.0 BOUND PRINTED MATTER

[Revise heading of 6.1 to read as follows:]

6.1 Packaging and Labeling

[Change in 6.1b ''red Label D'' to ''red Label 5''; change in 6.1e ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 6.2 to read as follows:]

6.2 Sacking and Labeling

* * * * *

[Revise 6.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M032 for overseas military mail).

* * * * *

M900 Advanced Preparation Options for Flats

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

* * * * *

4.0 BOUND PRINTED MATTER

4.1 Basic Standards

[Change in first sentence of 4.1 ''Effective September 1, 2003, packages'' to ''Packages''.]

* * * * *

4.4 Sack Preparation and Labeling

* * * * *

[Revise 4.4a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code destination (see M031 for overseas military mail).

* * * * *

M950 Co-Packaging Automation Rate and Presorted Rate Pieces

1.0 FIRST-CLASS MAIL

* * * * *

1.2 Package Preparation

[Change in 1.2a ''red Label D'' to ''red Label 5''; change in 1.2d ''tan Label MXD'' to ''tan Label X''.]

* * * * *

2.0 PERIODICALS

* * * * *

2.2 Package Preparation

[Change in 2.2c ''red Label D'' to ''red Label 5''; change in 2.2f ''tan Label MXD'' to ''tan Label X''.]

* * * * *

3.0 STANDARD MAIL

* * * * *

3.2 Package Preparation

[Change in 3.2b all instances of ''red Label D'' to ''red Label 5''; change in 3.2e ''tan Label MXD'' to ''tan Label X''.]

* * * * *

4.0 BOUND PRINTED MATTER

* * * * *

4.2 Package Preparation

[Change in 4.2b ''red Label D'' to ''red Label 5''; change in 4.2e ''tan Label MXD'' to ''tan Label X''.]

* * * * *

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

Neva R. Watson,

Attorney, Legislative, Office of Legal Policy and Ratemaking.

[FR Doc. 03–26299 Filed 10–16–03; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA203–4209a; FRL–7570–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on December 16, 2003, without further notice, unless EPA receives adverse written comment by November 17, 2003. If EPA receives such comments, it 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: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part IV of the **SUPPLEMENTARY INFORMATION** section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182, or via e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area, and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT, as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

II. Summary of the SIP Revision

On February 4, 2003, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for several major sources of VOC and NO_X. This rulemaking pertains to five of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements in this SIP revision are included in operating permits (OP) issued by PADEP.

The following table identifies the individual operating permit that EPA is approving for each source located in Pennsylvania.

VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Op No.	Source type	Major source pollutant
Keystone Carbon Company	Elk	OP 24–016	Powder Metal Parts Manufacturing	VOC
Mack Trucks, Inc.	Northampton	39–0004	Heavy Duty Trucks Assembly	VOC & NO_X
Owens-Brockway Glass Container, Inc.	Jefferson	OP 33–033	Glass Melting	NO_X
Resilite Sports Products, Inc.	Northumberland	OP–49–0003	Wrestling Mat Manufacturing Operations.	VOC
Westfield Tanning Company	Tioga	OP–59–0008	Leather Manufacturing	VOC

A. Keystone Carbon Company

Keystone Carbon Company operates a powder metal parts and self-lube bearings manufacturing facility located in Elk County, Pennsylvania and is considered a major source of VOC. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. OP 24–016 to EPA as a SIP revision. The permit lists the following sources and their respective control devices: (1) Powder blending process—methanol condensation system, (2) sintering ovens—pilot light (flare), (3) primary processing (hot forming)—0.08 pounds methanol/pound hot formed product, (4) heat treating (three tempering furnaces)—thermal oxidizers, (5) heat treating (two draw furnaces)—electrostatic precipitator, (6) heat treating (two induction hardening machines)—electrostatic precipitator, and (7) miscellaneous plant heating units. The permit contains a requirement for the facility to implement the RACT plan as defined in 25 Pa. Code Chapter 129 section 129.91. The permit also contains a requirement to maintain and operate facility degreasers (sealing and parts cleaning) in accordance with 25 Pa. Code Chapter 129 section 129.63. In addition, the permit contains the primary processing methanol (MeOH) emission limit of 0.08 pounds per pound of hot formed part produced. Records shall be maintained for the methanol usage and hot formed parts produced. Records shall also be maintained in accordance with 25 Pa. Code Chapter 129 section 129.95 and shall be made available to PADEP upon request.

B. Mack Trucks, Inc.

Mack Trucks, Inc., Macungie Assembly facility is located in Lower Macungie Township, Northampton County, Pennsylvania. Heavy duty trucks are assembled at the facility and it is considered a major source of VOC and NO_X. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. 39–0004 to EPA as a SIP revision. This permit requires Mack Trucks, Inc. and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. The permit lists the following sources that are regulated under the Commonwealth's presumptive RACT requirements: (a) Four (4) 6-cylinder engines, two (2) Cummin series NT–85–5–f2, one (1) Caterpillar series 3304 and one (1) Detroit series 92 engine which are limited to an annual capacity factor of less than five percent, or (b) an emergency standby engine operating less than 500 hours in a consecutive 12-month period. These sources shall be operated and maintained in accordance with good air pollution control practices. The permit contains a NO_X RACT emission limit of 441 gallons fuel oil/hour/boiler for the three (3) 67.1 MMBTU/hour cleaner Brooks boilers. The permit also contains a VOC RACT emission limit for clean-up solvent usage, 91.0 tons per year, for the entire facility. All cleaning operations are required to store new and used cleaning solvents in closed containers. A record of the quantity and identity of all VOC solvents used in clean-up operations for the entire facility are required to be recorded on an annual basis. These records shall be submitted to PADEP, in an approved format, within 90 days after the end of the year.

The VOC RACT for the facility is regulated by source and listed below:

1. Small Parts/Oven (39–318–088)

(a) The operation of this source is limited to 12,500 trucks per year.

(b) The maximum VOC emissions limit from this source is 175.0 pounds per day and 21.9 tons per year based on coating usage.

(c) The maximum coating usage for this source is 50 gallons per day and 12,500 gallons per year.

(d) The limit for all coatings used in this source shall not exceed an in-line average of 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by this source, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP in an approved format on a quarterly basis within 30 days after the end of the quarter.

2. Cab Color Spray Paint Booth/Undercoat and Oven (39–318–090)

(a) The operation of this source is limited to 12,500 trucks per year.

(b) The maximum VOC emissions limit from the cab operation is 612.5 pounds per day and 76.6 tons per year based on coating usage.

(c) The maximum coating usage for the cab color operation is 175 gallons per day and 43,750 gallons per year.

(d) The limit for all coatings used in this source shall not exceed an in-line average of 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by the cab coating operation, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP in an approved format on a quarterly basis within 30 days after the end of the quarter.

(f) The facility is required to record the quantity and identify all VOC solvents used for clean up purposes for the entire plant facility on an annual basis and submitted to PADEP in an approved format within 90 days after the end of the year.

(g) The maximum VOC emissions limit from the undercoat operation is 153.5 pounds per day and 19.2 tons per year based on coating usage.

(h) The maximum coating usage for the undercoat operation is 50 gallons per day and 12,500 gallons per year.

(i) The limit for all coatings for the undercoating operation is 3.07 pounds VOC per gallon.

(j) The facility is required to keep on hand chemical composition data for all coatings used by the undercoat operation, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP in an approved format on a quarterly basis within 30 days after the end of the quarter.

3. Final Touch-Up Paint Spray Booth and Oven (39–318–091)

(a) The operation of this source is limited to 50 trucks per day, 250 trucks per week and 12,500 trucks per year.

(b) The maximum VOC emissions limit from this source is 87.5 pounds per day and 10.9 tons per year based on coating usage.

(c) The maximum coating usage from this source is 25 gallons per day and 6,250 gallons per year.

(d) The limit for all coatings used in this source shall not exceed an in-line average of 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by this source, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP in an approved format on a quarterly basis within 30 days after the end of the quarter.

4. ''O'' Line Chassis Paint Spray Booth (39–318–092)

(a) The operation of this source is limited to 50 trucks per day, 250 trucks per week and 12,500 trucks per year.

(b) The maximum VOC emissions limit from this source is 87.5 pounds per day and 10.9 tons per year based on coating usage.

(c) The maximum coating usage for this source is 25 gallons per day and 6,250 gallons per year.

(d) The limit for all coatings used in an in-line average for this source is 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by this source, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP in an approved format on a quarterly basis within 30 days after the end of the quarter.

5. ''G'' Line Chassis Paint Spray Booth and Oven With ''H'' Chassis (39–318–093 and 39–318–095)

(a) The ''G'' and ''H'' line chassis paint booths and ovens are limited to a total of 12,500 trucks per year, this limit maybe distributed between either chassis line.

(b) The maximum VOC emissions limit from this source and the ''H'' line chassis paint spray booths and ovens are 1,455.5 pounds per day and 180.5 tons per year based on coating usage. These limits can be distributed between either chassis line.

(c) The maximum coating usage for these sources, are 413 gallons per day and 103,125 gallons per year. These limits can be distributed between either chassis line.

(d) The limit coatings used in these sources shall not exceed 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by these sources, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP, in an approved format, on a quarterly basis within 30 days after the end of the quarter.

6. Multi-Tone Paint Spray Booth and Oven (39–318–094)

(a) The operation of this source is limited to12,500 trucks per year.

(b) The maximum VOC emissions limit from this source is 133 pounds per day and 16.4 tons per year based on coating usage.

(c) The maximum coating usage from this source shall not exceed 38 gallons per day and 9.375 gallons per year.

(d) The limit coatings used in this source shall not exceed an in-line average of 3.5 pounds per gallon minus water for any 24-hour period.

(e) The facility is required to keep on hand chemical composition data for all coatings used by this source, and to record on a daily basis all coatings and any VOC solvent or thinner usage. These data are to be submitted to PADEP, in an approved format, on a quarterly basis within 30 days after the end of the quarter.

The facility shall maintain a file containing all records and other data that are required to be collected, pursuant to 25 Pa. Code Chapter 129 section 129.95, these records provide sufficient data and calculations to clearly demonstrate the requirements of 25 Pa. Code Chapter 129 sections 129.91–4 are met. The file shall include, but not be limited to: (1) Quality of fuel used on a daily basis, (2) total facility VOC emission calculated on a monthly basis (12-month rolling sum), and (3) all air pollution control systems performance evaluations and records of calibration checks, adjustments and maintenance performed on all equipment which is subject to the operating permit. All measurements, records and other data required to be maintained by the facility shall be retained for at least two years following the date on which such measurements, records or data are recorded. If requested by PADEP, the facility shall perform a stack test in accordance with the provisions of 25 Pa. Code Chapter 139 within the time specified by PADEP.

C. Owens-Brockway Glass Container, Inc.

Owens-Brockway Glass Container, Inc. is a facility located in Jefferson County, Pennsylvania that processes glass containers and is considered a major source of NO_X. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. OP 33–033 to EPA as a SIP revision. The permit contains NO_X emission limits for ''A'' and ''B'' glass melting furnaces of 5.5 pounds per ton per furnace of glass melted in the furnace. ''A'' and ''B'' glass melting furnaces shall be stack tested for NO_X emissions on an annual schedule (once per calendar year), commencing no later than May 31, 1995. Stack testing shall be performed in accordance with 25 Pa. Code Chapter 139 for NO_X emissions from stationary sources. If, after three consecutive annual tests, emission data consistently shows compliance with established RACT emission limits, the testing frequency may be altered as determined by PADEP. At least 30 days prior to stack testing, a pretest protocol shall be submitted to PADEP. The protocol shall include sampling port locations, specification of test methods, procedures and equipment, and additional applicable information regarding planned test protocol. In addition, at least two weeks prior to testing, PADEP shall be informed of the date and time of testing. Within 60 days after the testing, two copies of the complete test reports, including operational parameters, shall be submitted to PADEP for approval.

D. Resilite Sports Products, Inc.

Resilite Sports Products, Inc. (Resilite) operates a spray coating system for the production of wrestling mats. The facility in Northumberland County, Pennsylvania is considered a major source of VOC. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. OP–49–0003 to EPA as a SIP revision. This permit requires Resilite and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. The permit incorporates RACT determinations as required by the provisions of Title I of the CAA and 25 Pa. Code Chapter 129 sections 129.91 through 129.95 for the following wrestling mat manufacturing operations: (a) Adhesive application operations—one (1) spray booth and one (1) spray station, (b) mat finish and cure operations—four (4) spray bays, (c) mat reconditioning operations, (d) spray equipment cleanup operations, (e) air stripper—remediation of contaminated groundwater, and (f) one (1) 16,800,000 BTU per hour No. 2 fuel oil-fired Continental boiler.

The permit contains a combined VOC emissions limit for all operations existing at this facility, other than the air stripper and the boiler, of a total of 1,575 tons for the period beginning upon the date of issuance of this permit and ending three years from said date; a total of 725 tons during any consecutive 12-month period occurring within the previously referenced three year period, and a total of 425 tons during any consecutive 12-month period occurring after the conclusion of the previously referenced three year period. The permit also contains the following VOC limits: (a) 5.98 pounds per gallon of adhesive (minus water), as applied; (b) 6.83 pounds per gallon of organic solvent-based mat coating material (minus water), as applied; and (c) 1.0 pound per gallon of water-based mat coating material (minus water) as applied. In addition, no equipment shall be cleaned with VOC-containing solvents or cleaning materials other than spray guns and spray gun components.

The cleaning of all spray guns and spray gun components shall consist of soaking these items in closed containers of cleaning solvents. Under no circumstance shall VOC containing solvents be sprayed into the atmosphere. All containers of VOC containing adhesives, mat coating materials, and cleaning solvents shall be kept closed except when transferring material into or out of the containers.

The permit contains potential to emit VOC limits of three (3) pounds per hour, 15 pounds per day or 2.7 tons per year, for the air stripper, and the Continental boiler. A detailed RACT analysis which meets the criteria specified in 25 Pa. Code Chapter 129 section 129.92, must be submitted to PADEP for each source if any of these limits are exceeded. In addition, the Continental boiler is to be fired on gas (natural or LP) or No. 2 fuel oil, to which there had been no reclaimed, waste oil or other waste material added. The facility shall, upon request by PADEP, provide fuel analyses, or fuel samples, of the fuel used in the boiler.

Resilite is required to maintain copies of manufacturer's formulation or composition data sheets for all adhesives, mat coating materials, cleaning solvents, and other VOC-containing materials used within the previous two years and shall make this if available to PADEP. These data sheets are to contain all of the information needed to determine compliance with the VOC emission limits. Resilite is also required to maintain a mat reconditioning/cleanup solvent log in which the following data are recorded: (a) Identification, quantities and dates of use of all VOC-containing solvents used for mat reconditioning; (b) identification, quantities and dates of all VOC-containing solvents used for cleanup of spray guns and spray gun components; (c) identification, quantities and dates of all VOC-containing solvents used for cleanup purposes other than mat reconditioning and spray gun cleanup; and (d) quantities and dates of shipment for all spent mat reconditioning solvent and cleanup solvent shipped offsite for disposal or recycle. This information is to be retained for at least two years and made available to PADEP upon request.

Resilite shall implement the ''Employee Training Program'' and ''Leak Detection and Maintenance Program'' for all new and existing Resilite employees involved in adhesive application, mat coating material application, mat reconditioning and spray equipment cleanup activities. This training will also address the requirements of this permit as well as the requirements of any applicable state and federal regulations.

The permit contains recordkeeping requirements pursuant to 25 Pa. Code Chapter 129 section 129.95. Resilite shall keep accurate, comprehensive records sufficient to demonstrate compliance with the RACT requirements specified in this permit and shall, at a minimum, include the following: (a) Identity and amount of each adhesive used per month as well as identify and amount of any thinner added to the adhesive, (b) the mix ratio (gallons of thinner per gallon of adhesive) for each batch of adhesive used to which the thinner was added, (c) identity and amount of mat coating material used per month as well as the identity and amount of any thinner added to the mat coating material, (d) the mix ratio (gallons of thinner per gallon of coating material) for each batch of coating material used to which the thinner was added, and (e) gallons of groundwater processed through the air stripper per year as well as the VOC concentration in the influent to the air stripper, that is determined at least once per calendar quarter.

E. Westfield Tanning Company

Westfield Tanning Company is a leather manufacturing facility located in Tioga County, Pennsylvania and is considered a major source of VOC. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. OP–59–0008 to EPA as a SIP revision. This permit requires Westfield Tanning Company and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. The permit incorporates RACT determinations as required by the provisions of Title I of the CAA and 25 Pa. Code Chapter 129 sections 129.91 through 129.95 for the following sources: (1) Leather tanning operation consisting of the following: (a) tanning solutions prep room, (b) tanning solutions storage tank, and (c) tanning vats; (2) leather waterproofing operations consisting of the following: (a) four 165 gallon custom designed leather dip tanks (Tanks 1–4), (b) one 135 gallon custom designed leather dip tank (Tank 5), (c) one 475 gallon custom designed leather dip tank (Tank 6), and (d) one leather drying room; (3) two 750 horsepower natural gas/No. 2 fuel oil fired Johnson boilers; (4) three Safety Kleen degreasing sinks; (5) a gasoline storage consisting of a 250 gallon capacity horizontal gasoline storage vessel; (6) kerosene cleaning of the leather splitting blades; and (7) sponge solution fungicide leather treatment.

The permit contains a maximum VOC emission limit from the leather tanning operation of 11.4 tons in any 12 consecutive month period. The facility shall provide training to all employees involved in handling of VOC-containing materials associated with the leather tanning operation. The training shall, at a minimum, address the topics of VOC emission minimization techniques and good housekeeeping practices. The facility is required to maintain comprehensive, accurate records for the leather tanning operation in accordance with 25 Pa. Code Chapter 129 section 129.95 which, at a minimum, shall include monthly usage records for all VOC-containing materials associated with the tanning operation. These records shall be retained for a minimum of two years and made available to PADEP upon request.

The leather waterproofing operation requirements in the permit are pursuant to the RACT provisions of 25 Pa. Code Chapter 129 sections 129.91 through 129.95, and the Best Available Control Technology provisions of 25 Pa. Code Chapter 127 sections 127.1 and 127.12. The permit contains a maximum VOC emissions limit from the leather waterproofing operation of 55 tons in any 12 consecutive month period. All materials added to each waterproofing dip tank shall contain, in aggregate, no more than 5.5 pounds of VOC per gallon. Compliance is determined based on a quarterly average VOC content to be calculated based on all material additions to each tank in a given calendar quarter. All dip tanks shall be kept closed when not in actual use. The facility shall provide training to all employees involved in the waterproofing operation. The training shall, at a minimum, address the topics of VOC emission minimization techniques and good housekeeping practices. In addition, the wetting of cleaning rags associated with the waterproofing operation shall be done using a closed top cleanup solvent plunger cans and no waste cleanup solvents, either in bulk or remaining in used remaining in used cleanup rags, shall be disposed of through evaporation.

The facility shall maintain comprehensive, accurate records for the leather waterproofing tanning operation in accordance with 25 Pa. Code Chapter 129 section 129.95 and the Best Available Technology provisions of 25 Pa. Code Chapter 127 sections 127.1 and 127.12 which, at a minimum, shall include the following with respect to each waterproofing dip tank

incorporated in the waterproofing operation to which diluents (thinners, reducers, etc.) and/or any other VOC-containing material, other than dipping compounds are added: (1) The types and amount of dipping compounds added to each dip tank and the dates of addition, and (2) the types and amounts of any diluents and/or any other VOC-containing materials added to each dip tank and the dates of addition. For each waterproofing dip tank incorporated in the waterproofing operation to which a dipping compound is added, the facility shall maintain records of the type and amounts of dipping compound added to the tank. In addition, the facility shall also maintain separate records of all cleanup solvents used in the waterproofing operation. The records generated for each calendar quarter shall be submitted to PADEP by no later than the thirtieth day of the month following the respective calendar quarter.

The permit contains a potential to emit VOC emission limits of 3 pounds per hour, 15 pounds per day, or 2.7 tons per year for the following sources: (1) Two (2) Johnson boilers, (2) three (3) Safety Kleen degreasing sinks, (3) a 250 gallon capacity horizontal gasoline storage vessel, (4) kerosene cleaning of the leather splitting blades, and (5) sponge solution fungicide leather treatment. The two Johnson boilers are to be fired only on gas (natural or LP) or No. 2 fuel oil to which no reclaimed or waste oil or other waste materials have been added. The facility shall provide fuel analyses or fuel samples of the fuel used by the two boilers upon request by PADEP.

The facility shall also maintain comprehensive, accurate records for the following sources in accordance with 25 Pa. Code Chapter 129 section 129.95 which, at a minimum, shall include the following: (1) The amounts of natural gas and No. 2 fuel oil used, per calendar year, in each of the boilers, (2) the amount of degreasing solvent used and the amount of spent degreasing solvent shipped offsite, as liquid hazardous waste, per calendar year, for the degreasing sinks, (3) the amount of gasoline stored, per calendar year, in the gasoline storage tank, (4) the amount of kerosene used, per calendar year, for cleaning the leather splitting blades, and (5) the amount of sponge solution fungicide used, per calendar year, in the leather treatment operation. The facility shall retain these records onsite for at least two years and made available to PADEP upon request.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these SIP submittals because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania's SIP which establish and require RACT for the five major sources of VOC and NO_X listed in this document. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This direct final rule will be effective on December 16, 2003, without further notice unless we receive adverse comment by November 17, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA203–4209 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *morris.makeba@epa.gov*, attention: PA203–4209. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov*, then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether

submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for five named sources.

C. Petitions for Judicial Review

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 December 16, 2003. 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 approving the Pennsylvania's source-specific RACT requirements to control VOC and NO_X from five individual sources may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2003.

James W. Newsom,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(207) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(207) Revisions pertaining to VOC and NO_X RACT for major sources submitted on February 4, 2003.

(i) Incorporation by reference.

(A) Letter submitted on February 4, 2003 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals or operating permits.

(B) The following Operating Permits (OP):

(*1*) Keystone Carbon Company, Elk County, OP 24–016, effective May 15, 1995.

(*2*) Mack Trucks, Inc., Northampton County, 39–0004, effective May 31, 1995.

(*3*) Owens-Brockway Glass Container, Inc., Jefferson County, OP 33–033, effective March 27, 1995.

(*4*) Resilite Sports Products, Inc., Northumberland County, OP–49–0003, effective December 3, 1996.

(*5*) Westfield Tanning Company, Tioga County, OP–59–0008, effective November 27, 1996.

(ii) Additional Material.

(A) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(207)(i) of this section.

(B) [Reserved]

[FR Doc. 03–26191 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 03–2899]

Commission Organization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises part 0 of the Commission's rules to update the geographical coordinate locations of the Commission's protected field installations where radio spectrum monitoring operations are conducted to add the Commission's new Kenai, Alaska monitoring facility.

DATES: Effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Berthot, Enforcement Bureau, Spectrum Enforcement Division, (202) 418–1160.

SUPPLEMENTARY INFORMATION: This is a summary of the Order of the Commission's Managing Director, DA 03–2899, adopted on September 23, 2003, and released on September 24, 2003. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text may be retrieved from the FCC's Web site at *www.fcc.gov.* The text may also be purchased from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone: (202) 863–2893.

The Order amends § 0.121(b) of the rules to update the geographical coordinate locations of the Commission's protected field installations where radio spectrum monitoring operations are conducted. Specifically, the Order adds the geographical coordinates of the Commission's new Kenai, Alaska monitoring facility to the list of protected field installations set forth in § 0.121(b) of the rules. These locations are protected from harmful radio frequency interference to the Commission's monitoring activities that could be produced by the proximity of any nearby radio transmitting facilities.

Ordering Clauses

Accordingly, pursuant to the authority contained in sections 4(i) and (5) of the Communications Act of 1934, as amended, and § 0.231(b) of the rules, part 0 of the rules is amended as set forth in the rule changes.

As the rule amendment adopted in the Order pertains to agency organization, procedure and practice, the notice and comment provision of the Administrative Procedure Act contained in 5 U.S.C. 553(b) is inapplicable.

The rule amendment set forth in the rule changes will become effective October 17, 2003.

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for Part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

§ 0.121 [Amended]

■ 2. Section 0.121 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) Protected field offices are located at the following geographical coordinates (coordinates are referenced to North American Datum 1983 (NAD83)):

Allegan, Michigan, 42°36′20.1″ N. Latitude, 85°57′20.1″ W. Longitude

Anchorage, Alaska, 61° 09′41.0″ N. Latitude, 150°00′03.0″ W. Longitude

Belfast, Maine, 44°26′42.3″ N. Latitude, 69°04′56.1″ W. Longitude

Canandaigua, New York, 42°54′48.2″ N. Latitude, 77°15′57.9″ W. Longitude

Douglas, Arizona, 31°30′02.3″ N. Latitude, 109°39′14.3″ W. Longitude

Ferndale, Washington, 48°57′20.4″ N. Latitude, 122°33′17.6″ W. Longitude

Grand Island, Nebraska, 40°55′21.0″ N. Latitude, 98°25′43.2″ W. Longitude

Kenai, Alaska, 60°43′26.0″ N. Latitude, 151°20′15.0″ W. Longitude

Kingsville, Texas, 27°26′30.1″ N. Latitude, 97°53′01.0″ W. Longitude

Laurel, Maryland, 39°09′54.4″ N. Latitude, 76°49′15.9″ W. Longitude

Livermore, California, 37°43′29.7″ N. Latitude, 121°45′15.8″ W. Longitude
Powder Springs, Georgia, 33°51′44.4″ N. Latitude, 84°43′25.8″ W. Longitude
Santa Isabel, Puerto Rico, 18°00′18.9″ N. Latitude, 66°22′30.6″ W. Longitude
Vero Beach, Florida, 27°36′22.1″ N. Latitude, 80°38′05.2″ W. Longitude
Waipahu, Hawai, 21°22′33.6″ N. Latitude, 157°59′44.1″ W. Longitude

[FR Doc. 03–26319 Filed 10–16–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–2980; MM Docket No. 02–76; RM–10405, RM–10499*]

Radio Broadcasting Services; Belle Haven, VA; Crisfield, MD; Exmore, Nassawadox, and Poquoson, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 67 FR 20485 (April 25, 2002), this *Report and Order* allots Channel 250B1 to Belle Haven, Virginia, reallots Channel 241B from Cape Charles to Exmore, Virginia; substitutes Channel 290A for 252A at Nassawadox, Virginia, and substitutes Channel 291A for Channel 291B at Exmore, Virginia, and reallots Channel 291A to Poquoson, Virginia. It also provides Belle Haven and Poquoson, Virginia, with their first local aural transmission services. This document dismisses the petition for rule making filed by Bay Broadcasting, Inc. the licensee of Station WBEY(FM), Crisfield, Maryland, to substitute Channel 250A for Channel 245A at Crisfield, Maryland. The coordinates for Channel 250B1 at Belle Haven are 37–32–49 NL and 75–49–48 WL, with a site restriction of 1.1 kilometers (0.7 miles) southwest of Belle Haven. The coordinates for Channel 290A at Nassawadox are 37–33–43 NL and 75–44–24 WL, with a site restriction of 14.3 kilometers (8.9 miles) northeast of Nassawadox. The coordinates for Channel 291A at Poquoson are 37–12–30 NL and 76–25–07 WL, with a site restriction of 8 kilometers (4.9 miles) north of Poquoson. The coordinates for Channel 241B at Exmore are 37–18–02 NL and 75–59–05 WL.

DATES: Effective November 13, 2003.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 02–76, adopted September 25, 2003, and released September 29, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Belle Haven, Channel 250B1; by removing Cape Charles, Channel 241B; by removing Channel 291B and by adding Channel 241B at Exmore; by adding Nassawadox, Channel 290A; [1] and by adding Poquoson, Channel 291A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–26318 Filed 10–16–03; 8:45 am]

BILLING CODE 6712–01–P

[1] Nassawadox and Channel 252A are not listed in the FM Table of Allotments under Virginia. Channel 252A was allotted to Nassawadox in MM Docket No. 97–189. *See* 63 FR 45012, August 24, 1998.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307–3037–02; I.D. 100703C]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using trawl, jig, and pot gear to vessels using hook-and-line in the BSAI. These actions are necessary to allow the 2003 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective October 14, 2003, until 2400 hours, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Andrew N Smoker, 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 2003 BSAI Pacific cod TAC was established by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) as 191,938 metric tons (mt). Pursuant to § 679.20(a)(7)(i)(A), 3,893 mt was allocated to vessels using jig gear, 97,388 mt to vessels using hook-and-line or pot gear directed fishing allowance, and 90,211 mt to vessels using trawl gear. The share of the Pacific cod TAC allocated to trawl gear was further allocated 50 percent to catcher vessels and 50 percent to catcher/processor vessels (§ 679.20(a)(7)(i)(B)). The share of the Pacific cod TAC allocated to hook-and-line or pot gear was further allocated 80 percent to catcher/processor vessels using hook-and-line gear; 0.3 percent to catcher vessels using hook-and-line gear; 18.3 percent to vessels using pot gear; and 1.4 percent to catcher vessels less than

60 ft LOA that use either hook-and-line or pot gear (§ 679.20(a)(7)(i))).

As of September 27, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that trawl catcher/processors will not be able to harvest 11,000 mt and trawl catcher vessels will not be able to harvest 6,000 mt of Pacific cod allocated to those vessels under 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii)), NMFS apportions 17,000 mt of Pacific cod from trawl gear to vessels using hook-and-line gear.

The Regional Administrator has determined that vessels using jig gear will not harvest 3,600 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii)), NMFS is reallocating the unused amount of 3,600 mt of Pacific cod allocated to vessels using jig gear to vessels using hook-and-line gear.

The Regional Administrator has determined that vessels using pot gear will not be able to harvest 500 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii)), NMFS is reallocating the unused amount of 500 mt of Pacific cod allocated to vessels using pot gear to vessels using hook-and-line gear.

In accordance with § 679.20(a)(7)(ii)(C)(1), 200 mt of the combined reallocation of unused Pacific cod from trawl, jig and pot gear is apportioned to catcher vessels using hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) are revised as follows: 293 mt to vessels using jig gear, 98,811 mt to catcher processor vessels using hook-and-line gear, 492 mt to catcher vessels using hook-and-line gear, 17,322 mt to vessels using pot gear, 34,105 mt to trawl catcher/processors, and 39,105 mt to trawl catcher vessels.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds 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) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of the Pacific cod TAC, thus preventing full utilization of the TAC and reducing the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is taken under 50 CFR 679.20 and is exempt from OMB review under Executive Order 12866.

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

Dated: October 10, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–26294 Filed 10–14–03; 2:35 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 201
Friday, October 17, 2003

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

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 030929241–3241–01]

RIN 0691–AA55

International Services Surveys: BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed rules to amend regulations to institute a new survey, BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States, to be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The proposed survey is mandatory and will be conducted quarterly under the International Investment and Trade in Services Survey Act. The first BE–9 quarterly survey conducted if these proposed rules are adopted cover transactions in the first quarter of 2004. BEA would send the survey to potential respondents in January of 2004; responses would be due 50 days after the end of the calendar quarter. Data from the proposed BE–9 survey are needed for the compilation of the U.S. balance of payments accounts. The information collected in this survey will be used in developing the ''transportation'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Survey of Current Business, are one of the major statistical products of BEA. They are used extensively by both government and private organizations. Without the information collected in this survey, quarterly data needed for estimating an integral component of the transportation account would be unavailable. The data are utilized by private organizations and numerous government agencies for analyzing economic trends. The data collected are also used for compiling the U.S. national income and product accounts, and for reporting to international organizations such as the International Monetary Fund.

Foreign air carriers with total annual covered revenues or total annual covered expenses incurred in the U.S. of $5 million or more would be required to respond to the survey if this rule is adopted.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before December 16, 2003.

ADDRESSES: Mail comments to the Office of the Chief, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand deliver comments to room M–100, 1441 L Street, NW., Washington, DC 20005. Comments will be available for public inspection in room 8013, 1441 L Street, NW., between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward Dozier, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; via the Internet at edward.dozier@bea.gov; or via telephone at 202–606–9559.

SUPPLEMENTARY INFORMATION: These proposed rules amend 15 CFR part 801.9 to set forth the reporting requirements for the BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108 (hereinafter ''the Act''). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that ''The President shall, to the extent he deems necessary and feasible— * * * (1) conduct a regular data collection program to secure current information * * * related to international investment and trade in services * * * ; and (5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection * * * '' In section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purpose of the survey is for the compilation of the U.S. balance of payments accounts. The information collected in this survey is used in developing the ''transportation'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Survey of Current Business, are one of the major statistical products of BEA. They are used extensively by both Government and private organizations. Without the information collected in this survey, quarterly data needed for estimating an integral component of the transportation account would be unavailable. The data are utilized by private organizations and numerous government agencies for analyzing economic trends. The data collected are also used for compiling the U.S. national income and product accounts, and for reporting to international organizations such as the International Monetary Fund.

As proposed, BEA will conduct the BE–9 survey on a quarterly basis beginning with the first quarter of 2004. The survey requests information from foreign air carriers operating in the United States. Information is collected on a quarterly basis from foreign air carriers with total annual covered revenues or total annual covered expenses incurred in the United States of $5 million or more. Foreign air carriers with total annual covered revenues and expenses below $5 million are exempt from reporting.

The exemption criterion is based on the annual revenues or expenses covered by the survey for both the current and previous year. Thus, if a foreign airline operator had revenues or expenses covered by the survey of $5 million or more during the previous year or if the company expects its revenues or expenses will be $5 million or more during the current year, then it

must complete the survey for each of the four quarters of the current year.

The proposed quarterly survey will cover the transactions currently covered on the BE–36, Foreign Airline Operators' Revenues and Expenses in the United States, which is collected annually. If the proposed quarterly survey is approved the collection of the BE–36 will be discontinued. The first BE–9 quarterly survey conducted if these proposed rules are adopted cover transactions in the first quarter of 2004. BEA would send the survey to potential respondents in January of 2004; responses would be due 50 days after the end of the calendar quarter.

Executive Order 12866

These proposed rules are not significant for purposes of E.O. 12866.

Executive Order 13132

These proposed rules do not contain policies with Federalism implications as that term is defined in E.O. 13132.

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number. This collection of information has been submitted to OMB for approval.

The BE–9 survey, as proposed, is expected to result in the filing of reports from about 56 respondents on a quarterly basis, or about 224 responses annually. The average number of hours per response is 5.0 hours, or an annual reporting burden of 1,120 hours (224 responses multiplied by 5 hours average burden). This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The actual burden may vary from reporter to reporter, depending upon the number and variety of the respondent's transactions and the ease of assembling the data.

Comments are requested concerning: (a) 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; (b) the accuracy of the 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. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; or faxed (202–395–7245) or e-mailed (*pbugg@omb.eop.gov*) to the Office of Management and Budget, O.I.R.A. (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small foreign air carriers from mandatory reporting because the reporting threshold for this survey is set at a level that will exempt most small foreign air carriers. The proposed BE–9 quarterly survey requests information from foreign air carriers operating in the United States with total annual covered revenues or total annual covered expenses incurred in the United States of $5 million or more. Foreign air carriers with total annual covered revenues and expenses below $5 million are exempt from reporting. Thus, the exemption level will exclude most small foreign air carriers from mandatory coverage.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and record keeping requirements.

Dated: September 3, 2003.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3 CFR, 1977 Comp., p. 147, E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by adding new paragraph (c)(3) to read as follows:

§ 801.9 Reports required.

(c) Quarterly surveys. * * *

(3) BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States:

(i) *Who must report.* A BE–9 report is required from U.S. offices, agents, or other representatives of foreign airlines that are engaged in transporting passengers or freight and express to or from the United States. If the U.S. office, agent, or other representative does not have all the information required, it must obtain the additional information from the foreign airline operator.

(ii) *Exemption.* A U.S. person otherwise required to report is exempt from reporting if total annual covered revenues and total annual covered expenses incurred in the United States were each less than $5 million during the previous year and are expected to be less than $5 million during the current year. If either total annual covered revenues or total annual covered expenses were or are expected to be $5 million or more, a report must be filed.

[FR Doc. 03–26298 Filed 10–16–03; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–030]

RIN No. 1218–AC01

Safety Standards for Cranes and Derricks

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor

ACTION: Notice of Negotiated Rulemaking Committee meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announces the fourth meeting of the Crane and Derrick Negotiated Rulemaking Advisory Committee (C–DAC). The Committee will review summary notes of the prior meeting, review draft regulatory text and continue to address substantive issues. The meeting will be open to the public.

DATES: The meeting will be on November 5, 6, 7, 2003. It will begin each day at 8:30 a.m.

ADDRESSES: The meeting will be held at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 and will be in conference room S–4215 A, B, C.

Written comments to the Committee may be submitted in any of three ways: by mail, by fax, or by email. Please include ''Docket No. S–030'' on all submissions.

By mail, submit three (3) copies to: OSHA Docket Office, Docket No. S–030, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210, telephone (202) 693–2350. Note that receipt of comments submitted by mail may be delayed by several weeks.

By fax, written comments that are 10 pages or fewer may be transmitted to the OSHA Docket Office at fax number (202) 693–1648.

Electronically, comments may be submitted through OSHA's Webpage 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 to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, clearly identify your electronic comments by name, date, subject, and Docket Number, so that we can attach the materials to your electronic comments.

FOR FURTHER INFORMATION CONTACT: Michael Buchet, Office of Construction Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693–2345.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Agenda
III. Anticipated Key Issues for Negotiation
IV. Public Participation

I. Background

On July 16, 2002, OSHA published a notice of intent to establish a negotiated rulemaking committee, requesting comments and nominations for membership (Volume 67 of the **Federal Register**, page 46612). In subsequent notices the Department of Labor announced the establishment of the Committee (Volume 68 of the **Federal Register**, page 35172, June 12, 2003), requested comments on a list of proposed members (68 FR 9036, February 27, 2003), published a final membership list (68 FR 39877, July 3, 2003), announced the first meeting, (68 FR 39880, July 3, 2003), which was held July 30–August 1, 2003 and announced the second meeting (68 FR 48843, August 15, 2003), which was held September 3–5, 2003.

II. Agenda

The Committee will address the locations for future meetings, review draft materials prepared by the Agency on issues discussed at prior meetings, and address additional issues.

III. Anticipated Key Issues for Negotiation

OSHA anticipates that key issues to be addressed will include:

1. The identification/description of what constitutes ''cranes and derricks'' for purposes of determining the equipment that will be covered by the proposed rule.
2. Qualifications of individuals, who operate, maintain, repair, assemble, and disassemble cranes and derricks.
3. Work zone control.
4. Crane operations near electric power lines.
5. Qualifications of signal-persons and communication systems and requirements.
6. Load capacity and control procedures.
7. Wire rope criteria.
8. Crane inspection/certification records.
9. Rigging procedures.
10. Requirements for fail-safe, warning and other safety-related devices/technologies.
11. Verification criteria for the structural adequacy of crane components.
12. Stability testing requirements.
13. Blind pick procedures.
14. Fall protection.
15. Crane on barges and barge cranes.
16. Self-erecting hydraulic piling rigs.

IV. Public Participation

All interested parties are invited to attend this public meeting at the time and place indicated above. Note, however, that a government issued photo ID card (State or Federal) is required for entry into the Department of Labor building. No advanced registration is required. The public must enter the Department of Labor for this meeting through the 3rd and C Street, NW entrance. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact Luz DelaCruz by telephone at 202–693–2020 or by fax at 202–693–1689 to obtain appropriate accommodations no later than Wednesday, October 29, 2003. The C–DAC meeting is expected to last two and a half days.

In addition, members of the general public may request an opportunity to make oral presentations to the Committee. The Facilitator has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the committee members or other participants.

Minutes of the meetings and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210; Telephone (202) 693–2350. Minutes will also be available on the OSHA Docket Web page: *http://dockets.osha.gov/*

The Facilitator, Susan Podziba, can be reached at Susan Podziba and Associates, 21 Orchard Road, Brookline, MA 02445; telephone (617) 738 5320, fax (617) 738–6911.

Signed at Washington, DC, this 10th day of October, 2003.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 03–26300 Filed 10–16–03; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–277]

RIN 2115–AA00

Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the security zone size of the Kewanuee Nuclear Power Plant on Lake Michigan. This security zone is necessary to protect the nuclear power plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. The zone is intended to restrict vessel traffic from a portion of Lake Michigan.

DATES: Comments and related material must reach the Coast Guard on or before December 16, 2003.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office (MSO) Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. MSO Milwaukee maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Milwaukee between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC Dave McClintock, MSO Milwaukee, at 1 (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–03–277), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office Milwaukee at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. Current events indicate that significant threats of this type of attack still exist. National security and intelligence officials warn that future terrorists attacks are likely. The Coast Guard is responding by, amongst many other things, enacting security zones around critical infrastructure.

This regulation proposes to revise the size of the security zone for the Kewaunee Nuclear Power Plant. This security zone is necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Milwaukee, or his on-scene representative, are prohibited from entering or moving within the zone. The Captain of the Port Milwaukee may be contacted via VHF Channel 16 for further instructions to request permission before transiting through the restricted area. The Captain of the Port Milwaukee's on-scene representative would be the patrol commander.

Discussion of Proposed Rule

On July 31, 2002, the Coast Guard created a permanent security zone around the Kewaunee Nuclear Power Plant (67 FR 49578, July 31, 2002). This rulemaking proposes to change the location of that security zone to the following: All navigable waters of Western Lake Michigan encompassed by a line commencing from a point on the shoreline at 44°20.715′ N, 087°32.080′ W; then easterly to 44°20.720′ N, 087°31.630′ W; then southerly to 44°20.480′ N, 087°31.630′ W; then westerly to 44°20.480′ N, 087°31.970′ W; then northerly following the shoreline back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83).

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Since this security zone would not be located near commercial vessel shipping lanes, there would be no impact on commercial vessel traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This security zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would not obstruct the regular flow of traffic and would allow vessel traffic to pass around the security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

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

Federalism

A rule has implications for Federalism under Executive Order

13132, 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 proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not affect 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it would 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 proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g) of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this proposed rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Revise paragraph (a)(1) of § 165.916 to read as follows:

§ 165.916 Security Zones; Captain of the Port Milwaukee Zone, Lake Michigan.

(a) *Location.* * * *

(1) *Kewaunee Nuclear Power Plant*—All navigable waters of Western Lake Michigan encompassed by a line commencing from a point on the shoreline at 44°20.715′ N, 087°32.080′ W; then easterly to 44°20.720′ N, 087°31.630′ W; then southerly to 44°20.480′ N, 087°31.630′ W; then westerly to 44°20.480′ N, 087°31.970′ W, then northerly following the shoreline back to the point of origin. (NAD 83).

* * * * *

Dated: 24 September 2003.

H.M. Hamilton,

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

[FR Doc. 03–26305 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA203–4209b; FRL–7570–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania to establish and require reasonably available control technology (RACT) related requirements to limit volatile organic compounds (VOCs) and nitrogen oxides (NO_X) from five individual sources. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives 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. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 17, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental

Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Pennsylvania's Approval of VOC and NO_X RACT Requirements for Five Individual Sources, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA203–4209 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *morris.makeba@epa.gov,* attention: PA203–4209. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the

remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: September 29, 2003.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. 03–26194 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–128; FCC 03–220]

Implementation of Section 273 of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document terminates the pending Notice of Proposed Rulemaking to implement provisions of section 273 of the Telecommunications Act of 1996 (the Act) that pertain to manufacturing by the Bell Operating Companies (BOCs). (*In the Matter of Implementation of Section 273 of the Communications Act of 1934, as Amended in the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, CC Docket No. 96–254, 62 FR 3638, January 24, 1997 (*BOC Manufacturing NPRM*)). The statute, as written, is sufficiently detailed and clear as to cover most circumstances at this time. Adopting rules to implement the provisions of section 273 would not serve the public interest and would impose unnecessary regulatory burdens inconsistent with the pro-competitive, deregulatory goals of the Act. Accordingly, for the reasons indicated below, the Commission concludes that it is unnecessary to adopt rules to implement section 273 at this juncture and terminates this proceeding.

DATES: This proposed rule is withdrawn as of October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Henry L. Thaggert, Attorney-Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418–7941, or via the Internet at *hthaggert@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 96–254, FCC 03–220, adopted September 15, 2003, and released September 16, 2003. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Synopsis of the Memorandum Opinion and Order

1. *Background.* Section 273 permits a BOC to manufacture telecommunications equipment and customer premises equipment through a structurally separate corporate affiliate once the Commission authorizes the BOC to provide in-region, interLATA services pursuant to section 271(d) of the Act. Section 273 provides for two important exceptions to the requirement that a BOC refrain from all manufacturing activity until after it receives section 271 approval. First, section 273(b)(1) permits a BOC at any time to engage in ''close collaboration'' with manufacturers on product design and development. Second, section 273 (b)(2) permits a BOC at any time to enter into ''royalty agreements'' with manufacturers.

2. The *BOC Manufacturing NPRM* invited comment and proposed numerous tentative conclusions to implement rules governing section 273. The *BOC Manufacturing NPRM* generated comment from BOCs, competitive LECs, manufacturers, and others. Since the issuance of the *BOC Manufacturing NPRM*, each BOC has obtained section 271 authority to provide in-region interLATA service in at least one of its states, and Verizon and BellSouth have received section 271 authority throughout their regions. Yet to our knowledge, no BOC has created a manufacturing affiliate, nor has the Commission received complaints that BOCs have violated section 273.

3. The Commission concludes that the provisions of section 273 are sufficiently detailed as to be self-executing and sufficiently clear as to cover most circumstances. Thus, section 273 requires no further elaboration at this time. More than seven years have passed since the passage of the Act, and the Commission has granted section 271 authorization to provide in-region interLATA service in forty-two states and the District of Columbia. Our experience over this time frame persuades us, with the benefit of hindsight, that the concerns the Commission articulated in the *BOC Manufacturing NPRM* were unwarranted because the competitive harms the Commission envisioned simply have not materialized.

4. Whenever the Commission adopts rules, it must consider whether the benefit of such rules outweighs the burden on regulated entities. As written, section 273 provides detailed requirements that should facilitate quick review and disposal of alleged violations on a case-by-case basis. Moreover, if a party believes that section 273 does not clearly indicate the proper course of conduct, the Commission has in place adequate mechanisms for addressing the party's concerns. Accordingly, we believe a case-by-case approach would serve the public interest more efficiently than imposing a new rules regime.

Regulatory Flexibility Act

5. The Commission concludes that, because it does not adopt rules in this Memorandum Opinion & Order to implement section 273, our resolution of this matter raises no Regulatory Flexibility Act issues. Although section 273 focuses primarily on BOC manufacturing activity, in the *BOC Manufacturing NPRM* the Commission questioned whether development of rules would ''have a significant economic impact on a substantial number of small businesses insofar as they apply to entities that develop standards, develop generic requirements and conduct certification activity.'' However, in this Memorandum Opinion & Order, the Commission neither promulgates new rules nor revises existing rules, thus the action does not require any change in the current practices of any standard setting entities, large or small. Accordingly, because the Commission implements no rules, it takes no action that would require entities to modify their practices. Thus, the Commission finds that the action will not have a ''significant economic impact on a substantial number of small entities.''

Paperwork Reduction Act of 1995

6. The Commission finds that this Memorandum Opinion and Order does not contain information collection provisions and therefore does not implicate the Paperwork Reduction Act of 1995.

Ordering Clauses

1. Accordingly, pursuant to sections 1, 3, 4(i)–(j), 7, 201–209, 218–220, 251, 271–273 and 403 of the

Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154(i)–(j), 157, 201–209, 218–220, 251, 271–273, and 403 that this Memorandum Opinion and Order *is adopted.*

2. The Commission has thus completed its review of the record in the above-captioned rulemaking. Accordingly, the above-captioned proceeding *is terminated.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–26108 Filed 10–16–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[WC Docket No. 03–173; FCC 03–224]

Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates a rulemaking proceeding to examine the rules applicable to pricing of unbundled network elements (UNEs) and resold telecommunications services made available by incumbent local exchange carriers (LECs) to competitive LECs. The Federal Communications Commission (Commission) adopted the current UNE pricing regime known as the Total Element Long Run Incremental Cost (TELRIC) methodology in 1996. This Commission stated at that time that it intended to re-examine this methodology over time, and this rulemaking represents the Commission's first such re-examination of its UNE pricing rules. The Commission also adopted resale pricing rules in 1996. The U.S. Court of Appeals for the Eighth Circuit reversed the resale pricing rules in 2000. This document seeks comment on whether, and, if so, in what manner, to revise the Commission's UNE pricing rules and on whether, and, if so, in what manner, to promulgate resale pricing rules.

DATES: Comments due December 16, 2003, and reply comments due January 30, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: Steve Morris, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 03–173, adopted on September 10, 2003, and released on September 15, 2003. The full text of this document is available on the Commission's website Electronic Comment Filing System and for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365. The full text of the NPRM may also be purchased from the Commission's duplicating contractor, Qualex International, Room CY–B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or e-mail at *qualexint@aol.com.*

Background

1. This NPRM, adopted September 10, 2003 and released September 15, 2003 in WC Docket No. 03–173, FCC 03–224, initiates a proceeding to examine the Commission's UNE pricing and resale pricing rules. Currently, the Commission's TELRIC rules, 47 CFR 51.501 *et seq.*, which were promulgated in 1996, apply to the pricing of UNEs. The U.S. Supreme Court affirmed the Commission's jurisdiction to promulgate these rules in 1999 and affirmed the reasonableness of these rules in 2002. In contrast, however, because the U.S. Court of Appeals for the Eighth Circuit reversed the Commission's resale pricing rules in 2000, there currently are no resale pricing rules. Because the Commission's UNE pricing rules have not been examined in over seven years, and because the Commission does not have resale pricing rules, we conclude that it is time to examine the pricing rules for UNEs and resale.

Discussion

2. We undertake this rulemaking with the goal of modifying or clarifying the Commission's UNE and resale pricing rules to aid state commissions in more easily developing UNE pricing and resale discounts that meet the statutory standards established by Congress in section 252(d) of the Telecommunications Act of 1996 and to provide more certainty and consistency in the results of these state proceedings. *See* 47 U.S.C. 252(d). We seek to determine whether our UNE pricing methodology is working as intended and, in particular, whether it is conducive to efficient facilities investment. We also undertake this rulemaking to examine whether, and, if so, in what manner, to promulgate resale pricing rules.

3. As a preliminary matter, we reaffirm our commitment to using forward-looking costing principles to determine UNE rates. We decline to open an inquiry into alternative pricing theories, including historical cost, efficient component pricing rule, and Ramsey pricing theories. Instead, in examining UNE pricing rules, the NPRM focuses, and seeks comment, on whether clarifications or modifications should be made to the current forward-looking economic cost-based rules.

4. In the NPRM, we will examine whether the UNE pricing rules distort our intended pricing signals by understating forward-looking costs and thereby thwart the development of facilities-based competition. We will consider whether modifications to the current UNE pricing rules are necessary to both preserve their forward-looking emphasis and pro-competitive purposes, while simultaneously making the rules more transparent and theoretically sound. Specifically, we tentatively conclude that UNE prices should be based on costs more firmly rooted in the real-world attributes of the existing networks of incumbent LECs rather than the speculative attributes of a purely hypothetical network. We seek comment on this tentative conclusion.

5. We seek comment on the appropriate goals of a UNE pricing regime. Should UNE prices continue to be set in a manner that sends efficient entry and investment signals to competitors and that enables incumbent LECs to recover their forward-looking costs? We ask that parties comment on whether these remain the appropriate goals and, if not, that parties identify alternative pricing goals. We seek information on how the Commission can measure whether a pricing regime is sending appropriate entry and investment signals. We request parties comment on the value of comparisons to an incumbent LEC's historical costs? We also seek comment on potential other goals of a pricing regime, such as transparency and verifiability.

6. We seek comment on the effect of the Commission's recent decision in the *Triennial Review Order*, 68 FR 52276, September 2, 2003. In particular, the Commission adopted a new interpretation for determining whether requesting telecommunications carriers

are entitled to access a network element on an unbundled basis. We ask that comments discuss in detail the relationship, if any, between this new interpretation and the Commission's UNE pricing rules. In particular, we seek comment on the affect on our pricing rules of the limitations on the unbundling mandates associated with hybrid fiber/copper loops. We also seek comment on the affect limitations on fiber loop unbundling should have on UNE pricing rules. Further, we request that parties comment on how states should set rates for network elements that no longer are required to be provided on an unbundled basis.

7. In the universal service proceeding, the Commission determined that funding should be based on the forward-looking cost of providing universal service, and identified criteria to guide in the selection of a forward-looking universal service cost model. *Universal Service Order*, 62 FR 32862, June 17, 1997. The Commission applied these criteria to develop a computer cost model and to select the inputs necessary to develop forward-looking costs using this model. *USF Platform Order*, 63 FR 63993, November 18, 1998; *USF Inputs Order*, 64 FR 67372, December 1, 1999. In developing the universal service cost model and inputs, the Commission did not intend to provide any systematic guidance for TELRIC rate-setting, and emphasized that universal service cost inputs may not be appropriate for use in determining UNE prices. The Commission continues to discourage states from using the universal service nationwide inputs for the purpose of developing UNE rates. We invite parties to comment on the relationship between universal service cost rules and UNE pricing rules.

8. *Network Assumptions—General Theory.* One of the central internal tensions in the application of the TELRIC methodology is that it purports to replicate the conditions of a competitive market by assuming that the latest technology is deployed throughout the hypothetical network, while at the same time assuming that this hypothetical network benefits from the economies of scale associated with serving all of the lines in a study area. In the real world, however, even the most efficient carrier's network will reflect a mix of new and older technology at any given time. We thus seek comment on whether TELRIC's technology assumptions may result in forward-looking costs that are not achievable even in the most competitive markets and whether the TELRIC methodology, therefore, may undermine the incentive for either competitive LECs or incumbent LECs to build new facilities.

9. We tentatively conclude that the TELRIC rules should more closely account for real-world attributes of the routing and topography of an incumbent LEC's network in the development of forward-looking costs. We seek comment on this approach and, in particular, on how such an approach may differ from the practices of state commissions in UNE pricing proceedings. We also ask parties to comment on proposals that would achieve these objectives. We seek comment on whether it is appropriate to assume that the cost of an existing element is the cost of that element if it were being replaced today. We also seek comment on whether we should define the relevant network as one that incorporates upgrades planned by the incumbent LEC over some objective time horizon (*e.g.*, three or five years), as documented, for example, in an incumbent LEC's actual engineering plans. We request parties comment on any other alternatives that would ground the TELRIC rules in the attributes of an incumbent LEC's existing network. Further, we seek comment on whether any of these approaches would produce results that are more consistent across states and send better entry and investment signals to both incumbents and competitors.

10. The TELRIC methodology currently defines the term ''long run'' to mean a period long enough for all of a firm's costs to be variable or avoidable. We seek comment on whether our tentative conclusion compels us to shift away from a long run average cost methodology to a short run average cost methodology and, if so, what are the consequences of such a shift. We request parties comment on whether such an approach is consistent with the statute's heavy presumption against the use of embedded costs.

11. We ask the parties to suggest other ways of defining the network that is to be modeled in a UNE pricing proceeding. To what extent should network assumptions reflect evidence of the network decisions made by competitive LECs? Parties should explain in detail the network assumptions they advocate and the competitive assumptions implicit in their proposals. Parties should also explain whether they are proposing a theory based on short-run costs or long-run costs, and how their proposed definition of the network will produce more accurate economic signals and more consistent results than the current pricing regime.

12. The dispute as to the relevant network for pricing purposes is in large part a dispute over what constitutes efficiency. We seek comment on the efficiency standard that the Commission should use in order to achieve UNE prices that send correct economic signals regarding investment, while still achieving the necessary level of cost recovery. A central principle of the current UNE pricing rules is that competitive LECs should not pay rates that compensate incumbent LECs for past inefficiencies. Given that many incumbent LECs have been subject to price cap regulation for some time, we seek comment on whether we should find an incumbent LEC's practices presumptively efficient. Would the adoption of a productivity factor be necessary as part of a transition to a regime based more on the network assumptions of an existing network? We also ask parties to identify the evidence that would be necessary to overcome a presumption of efficiency by an incumbent LEC and what effect any asymmetry in access to information about an incumbent's practices and costs should have on any presumption we create. We ask parties to be very specific in defining the standard of efficiency and explaining how to determine whether a network is optimized for economic efficiency. We further ask parties that favor a change in network assumptions to identify how such a change would affect each component of the pricing rules (*e.g.*, operating expenses, cost of capital, depreciation).

13. We ask parties to discuss whether a regime focused more closely on the existing network of an incumbent would be easier for state commissions to implement than the current TELRIC regime. For example, we seek comment on whether there would be issues of transparency and verifiability in placing a greater reliance on the attributes of an incumbent LEC's existing network. We seek comment on whether focusing the cost inquiry on an incumbent's existing network might place competitive LECs at an informational disadvantage in litigating any factual issues about which the incumbent LEC, as owner of that network, may have better information. We request parties propose concrete procedural safeguards designed to minimize risks of an informational imbalance resulting from methodological reforms discussed in the NPRM. We also ask parties to comment on ways in which UNE pricing proceedings can be streamlined without placing any party at a material informational disadvantage.

14. *Network Assumptions—Specific Network Inputs.* In addition to our tentative conclusion that a forward-looking pricing methodology should more closely account for the real-world attributes of the routing and topography of an incumbent LEC's network, we believe there are a number of aspects of the current efficient network assumption that might benefit from clarification or modification. We discuss some of these issues below, and we encourage parties to identify additional steps we might take to produce prices that satisfy the objectives we have identified.

15. We seek comment on the network routing assumptions that would be consistent with our tentative conclusion that prices should account for the real-world attributes of the routing and topography of an incumbent LEC's network. Specifically, we seek comment on the importance of the locations of existing rights-of-way, existing poles, and existing conduit for all wireline carriers when new facilities are built. We also seek comment on whether there is any theoretical basis for an approach that does not assume the existence of current roads, buildings, and natural obstacles. We request parties to comment on whether and how existing rights-of-way should be accounted for in network routing assumptions. Parties supporting the use of existing rights-of-way as a basis for network routing assumptions should explain how states can best determine current rights-of-way routes, and how such routes can be compared to the routes of incumbent LEC facilities and of the routes generated by computer cost models. We ask parties to explain how their proposed network principles reflect the variables than incumbent and competitive LECs consider in making routing and construction decisions. To the extent parties propose principles based on the real-world attributes of an incumbent LEC's existing network, they should explain in detail how a state commission would establish the forward-looking cost of an existing network, and how such a costing approach differs from ''rate-of-return or other rate-based'' methodologies prohibited under section 252(d)(1). 47 U.S.C. 252(d)(1). We also ask parties to comment on the applicability, if any, of the Commission's conclusion in the *USF Platform Order* that incumbent LEC networks are an inappropriate basis to use to determine outside plan design because they ''may not represent the least-cost, most-efficient design in some cases.'' Finally, we invite parties, and in particular state commissions, to comment on whether, and how, our tentative conclusion to account more closely for the real-world routing and topography of an incumbent's network would affect the ability of carriers to use computer cost models.

16. We seek comment on the technology assumptions that should be assumed in developing UNE prices. We invite parties to comment on how our tentative conclusion above affects the technology assumptions used to develop UNE prices. We request parties to comment on the relevance to the development of UNE prices of the Commission's statement in the *USF Platform Order* that existing incumbent LEC plant likely does not reflect forward-looking technology choices. We seek comment on how to determine prices for equipment types that are no longer widely used in the industry, such as analog switches or older versions of digital loop carrier systems. We also seek comment on how an approach that replicates an incumbent LEC's existing technology compares to a reproduction cost methodology.

17. We encourage parties to identify the specific factors that influence their decisions with respect to how quickly to deploy new technology. How, if at all, should we factor in the uncertainty associated with the timing and efficiency of new technology? Of what relevance, if any, is the pace at which incumbent LECs have deployed new technologies in the past? Is there evidence of the diffusion rates of new technology in competitive markets as opposed to monopoly markets that might inform our analysis?

18. We seek comment on certain specific cost input issues. Structure sharing refers to how much of the cost of installing poles, digging trenches, and placing conduit would be shared on a forward-looking basis by the incumbent LEC with other entities. The more sharing that is assumed, the lower the cost to the incumbent LEC of providing the element. We seek comment on the guidance the Commission should provide to state commissions on the method for establishing structure sharing percentages, particularly in light of our tentative conclusion, above. Should sharing opportunities that were available at the time plant was build be considered? How relevant are an incumbent LEC's actual sharing percentages? What other sources of data might be relevant? We request parties identify factors that either encourage or discourage parties from sharing construction costs today and explain how these factors should be reflected in determining UNE prices. Parties should provide empirical data with respect to their experiences sharing construction costs with other entities.

19. A fill factor represents the percentage of capacity of a particular facility or piece of equipment that is used on average over its life. Increasing fill factors effectively lowers costs by reducing the amount of spare capacity allocated to working units. We seek comment on the appropriate guidelines for states to follow in establishing fill factors. What factors do states currently consider in developing fill factors? How relevant are an incumbent's existing fill factors in establishing forward-looking fill factors? Should they be dispositive in light of our tentative conclusion, above? If not, what other evidence should be considered? Are carrier of last resort obligations relevant to determining the appropriate fill factors? Would the fill factors of other incumbent LECs be relevant to demonstrate achievable efficiencies? We seek comment whether carriers would operate at higher or lower fill factors as the level of facilities-based competition increases in a market. We request that parties submit empirical evidence that distinguishes between the fill factors that carriers experience in competitive markets and monopoly markets. We also seek comment on how fill factors are likely to vary as the rate of demand growth varies. Finally, we seek comment on methods for quantifying dynamically efficient fill factors on a forward-looking basis.

20. One of the key issues in determining unbundled switching prices is the switching discounts. In setting switching rates, state commissions have had to determine the appropriate mix of new switches, growth switching equipment, and technology upgrades to existing equipment. This issue arises because switch manufacturers typically offer a relatively large price discount for an entirely new switch and a smaller discount on growth or upgrade equipment added to an existing switch. The Commission has rejected assumptions of both 100 percent new switches and 100 percent growth equipment.

21. Because switching equipment has a high degree of modularity, carriers over time grow their switches and upgrade them with new technology as it evolves over time on the premise that this is a better way to minimize costs than purchasing a switch large enough to satisfy anticipated demand over the entire life of the switch. We seek comment on whether unbundled switching costs should be based on the prices that an efficient incumbent LEC or other entrant would pay for switching

equipment over the life of the switch and not at a particular point in the switch's life cycle. In addressing this question, parties should explain the assumptions they make with respect to line demand and technology improvements, and their assumptions regarding vendor pricing strategies.

22. The basic formula for developing a price for an element is to divide total cost by total demand. We ask for comment on the use of this principle in developing a price that is based on costs of equipment installed in increments over the life of the switch. Parties should also explain whether, and how, these calculations should account for the time value of money. Is the appropriate discount rate for use in determining the time value of money the cost of capital used in calculating UNE prices generally?

23. Assuming that unbundled switching prices should reflect vendor prices for switch equipment that is installed in increments over the life of the switch, we seek comment on whether the starting point for calculating costs should be a new switch that is installed today. We also seek comment on whether unbundled switching prices should reflect, in addition to costs for the initial switch equipment, costs of growth additions and technology upgrades, growth additions alone, or upgrades alone for the years following the initial installation. Commenters that believe current prices should recover costs of future upgrades should explain why current competitive LECs should pay for benefits that they do not yet receive. In light of our conclusion that UNE pricing should continue to be based on a forward-looking methodology, we ask commenters to describe in detail any rationale for supporting or rejecting UNE prices based on vendor prices that incumbent LECs currently pay for equipment they are installing today in existing switches.

24. We ask parties to explain in detail the methodology that should be used to develop total cost and total demand under this approach. We also invite parties to submit studies showing how to develop an unbundled switching price. These studies should assume that service is provided using modern digital switches that are installed today. We ask that commenters develop this price for either an incumbent LEC's study area or a UNE zone within a study area. One study should develop the costs of initial new equipment and all future growth equipment that is expected to be installed periodically over the life of the switch. A second study should develop costs for these two components plus costs of all future technology upgrade equipment that is expected to be installed periodically over the life of the switch. Parties should explain and fully document the methodology, assumptions, and data they use to estimate these costs and the demand over which these costs are spread. If a commenter believes UNE prices should be based on a switch technology other than digital technology, that party may submit other studies in addition to, rather than in place of, the studies requested above.

25. *Cost of Capital.* The cost of capital is the cost a firm will incur in raising funds in a competitive capital market. It is generally estimated as a weighted average of the cost of equity and the cost of debt. In the *Triennial Review Order,* the Commission clarified that the TELRIC-based cost of capital should reflect the risks of a competitive market. Because the objective of TELRIC is to establish a price that replicates the price that would exist in a market in which there is facilities-based competition, the Commission held that TELRIC prices should reflect the risk of losing customers to other facilities-based carriers. The importance of this clarification was to confirm that state commission must use a consistent set of assumptions when they calculate the three main rate components (*i.e.,* operating expenses, cost of capital, and depreciation). We invite parties to comment on whether this principle should apply even if the Commission adopts a UNE pricing methodology that is tied more closely to the existing network of an incumbent LEC.

26. We ask parties to identify the specific variables that determine the cost of capital under the network assumptions that they advocate, and to offer suggestions as to how to quantify the various components of risk that should be reflected in a company's cost of capital. We request parties to identify both the theoretical arguments and empirical evidence supporting the use of these variables. We seek comment on how the cost of debt and equity should be weighted and on how states should determine the appropriate capital structure. We seek comment on whether incremental investment is typically funded through debt or equity and whether the cost of capital should reflect this.

27. One important risk factor is the risk of losing customers to facilities-based competitors. How should this risk be measured? What is the relationship between this risk and the network assumptions we adopt. Is the risk of supplying a product or service always greater in a competitive market than in a monopoly market? We also seek comment on the role of fixed and sunk costs, assumptions about the level and kind of competition, and entry strategies of competitors in affect risk and cost of capital of incumbent carriers.

28. We seek comment on the relationship, if any, between our unbundling rules and the risk of stranded investment. Have long-term contracts been used in the provision of UNEs and how does this answer affect the cost of capital? How can the risks associated with month-to-month contracts be quantified? Does the use of economic depreciation eliminate the need to compensate separately an incumbent LEC for any additional risk of stranded investment?

29. We ask parties to comment on ways in which the Commission might simplify the task of setting the cost of capital. For example, if we retain our current rules, should the cost of capital vary among different states or among different companies, and, if not, should the Commission establish a particular cost of capital for states to employ? If we move to a pricing regime that looks more closely at the incumbent LEC's actual network, are there any presumptions we could establish to facilitate selection of a cost of capital? We ask parties to provide studies in support of their proposals. Regardless of our network assumptions, are there particular models for projecting cost of capital that should or should not be used and are there particular data sources that should or should not be given deference? We ask parties to identify proxy companies or industries for use in estimating UNE cost of capital.

30. We ask parties to comment on when it would be appropriate for a state commission to establish different costs of capital for different UNEs and, in those situations, to identify what types of risks distinguish one element from another. Would such an approach accurately reflect how incumbent LECs actually raise capital and, if not, is this relevant? We also seek comment on why such an approach has not been implemented in the states. We seek comment, particularly from state commissions, on whether and, if so, why such an approach has been considered and rejected. Are there steps the Commission could take to facilitate the ability of states to establish UNE-specific costs of capital? Do the benefits of using a cost of capital that more accurately reflects the risk associated with providing a particular UNE outweigh the administrative burden of such an approach?

31. We ask parties to explain whether different proxy groups should be used to estimate the cost of capital for different UNEs. Parties should identify these proxy groups and explain in detail why they are appropriate. Alternatively, parties that advocate using a single proxy group and then adjusting that cost of capital according to the relative risk of the particular UNE should explain in detail how to make the relevant adjustments.

32. *Depreciation Expense.* Economic depreciation is a method of reflecting anticipated declines in the net present value of an asset of the course of its useful life. Calculating the appropriate rate of a price decline is complicated because it is based largely on projections about future events. In UNE pricing cases, the task is even more difficult because most models include a levelization function that imposes a constant price schedule over the life of the asset. There are two components of depreciation—the useful life of the asset and the rate at which the asset is depreciated over that useful life. Although the Commission has yet to provide guidance regarding the use of economic depreciation or to mandate a specific set of economic lives, in the *Triennial Review Order,* the Commission clarified that a carrier may accelerate recovery of the initial capital outlay for an asset over its life to reflect any anticipated decline in its value.

33. The useful life of an asset normally is determined by comparing the operating cost of the existing asset with the operating cost plus investment cost of a new asset that performs the same functions (assuming the new equipment will generate the same revenue as the existing equipment). Estimating asset lives is difficult because the estimate depends on the physical life of the existing asset, the expected operating costs of the existing asset, and the expected investment and operating cost of new assets, some of which may not yet have been invented.

34. We seek comment on the guidance that we may provide to the states on the issue of asset lives. For example, is the Commission's past reluctance to rely solely on Generally Accepted Accounting Principles (GAAP) financial reporting lives warranted in the context of UNE ratesetting? We seek comment on the relationship between the financial lives used to develop earnings reported to shareholders and the financial lives those that companies use to plan their future capital expenditures? If those lives differ, we request that parties explain why. We also request that competitive LECs and incumbent LECs submit the lives that they use to plan their capital expenditures. We further seek comment on whether compliance with GAAP results in any systematic bias.

35. We seek comment on how financial reporting lives are developed and whether they accurately represent the anticipated economic lives of assets. For example, how do financial lives reflect the potential impact of future technologies? What asset lives are appropriate for equipment in the existing incumbent LEC network that is, or soon will be, obsolete? How relevant, if at all, is the actual retirement experience of an incumbent LEC, its depreciation reserves, or its projected investment plans for the near future? Is there other objective evidence the Commission should consider in this regard? We encourage parties to provide studies forecasting the economic lives of the major local exchange carrier assets in support of their proposals.

36. We also ask parties to comment on whether FCC regulatory lives reflect the competition and technology assumptions required under a forward-looking costing methodology. We seek comment on whether these lives, first established a decade ago, are still accurate. We ask parties to explain whether the validity of FCC asset lives depends in part on whether the Commission retains a scorched node approach to network design or instead adopts its tentative conclusion that forward-looking costs should more closely account for the real-world attributes of the routing and topography of an incumbent LEC's network.

37. The second component of depreciation is the depreciation rate. Where equipment prices are expected to decline over time, the value of existing network assets (and therefore prices under a forward-looking methodology) should decline at the same rate. We seek comment on the relationship between the rate of change in equipment prices and the rate of change in final product prices. To what extent do companies in competitive markets consider changes in the economic efficiency of assets (*e.g.*, price changes, technological advances) in deciding how quickly to recover investments? How can we measure anticipated changes in the efficiency of equipment? Must any measure of equipment price also reflect advances in the capabilities of the equipment? What sources of information would be appropriate for use in establishing rates based on a forward-looking costing methodology? We request that parties explain how different sources of data address changing capabilities of equipment over time. We also request that parties explain whether recent declines in equipment costs, if any, are useful in establishing a general approach, or are they instead extraordinary events caused by the recent sudden decline in markets for telecommunications equipment generally and therefore not reliable indicators of general trends in equipment pricing.

38. We seek comment on whether, if the investment cost of equipment changes from year to year, should UNE prices also similarly change from year to year, all else being equal. We ask parties to comment on the costs and benefits of using a wholesale pricing regime responds to a market where investment costs are changing and facilities-based competition exists or is expected to exist. We also ask parties to address whether adjustments to depreciation expense are the best mechanism for reflecting anticipated equipment price changes in UNE rates.

39. Although carriers continually invest in new assets and depreciate old assets, UNE cost models typically assume that the entire investment in the network is made at a single point in time, and that no additional investment is made in subsequent periods. This same process is repeated each time a state commission sets new rates. Because the return on investment will decline in each period as the base of undepreciated investment declines, even straight-line depreciation will result in rapidly declining prices over time unless recovery is levelized across time periods. Consequently, a ''levelization'' function is included in most cost models to replicate real-world investment and recovery patterns.

40. The levelization of rates that occurs in most cost models appears to be inconsistent with the concept of adjusting UNE prices to reflect anticipated changes in equipment prices. We ask parties to comment on this statement and to discuss the consequences of running current cost models without the levelization function. Would there be dramatic variation in rates from year to year if rates were not levelized? Does the use of levelization send incorrect signals to the extent that it produces UNE prices that do not vary over time even when input prices are rising or falling? We seek comment on whether a better approach might be to recover through depreciation expense the difference between the current value of the asset and the anticipated value of the asset at the next rate proceeding. We request that parties explain how such an approach would work as a practical matter, including whether and how prices should be adjusted if a state

commission's expectation regarding equipment prices prove to be incorrect. We ask parties to identify any other approaches to economic depreciation that might be used.

41. We also seek comment on whether a reduction in asset lives might be used as a proxy for changing investment costs. Under what circumstances would a carrier retire an asset before the end of its useful life? We ask parties to comment on how unregulated companies account for the uncertainties associated with equipment price changes and other consequences of advancing technologies.

42. *Expense Factors.* Regulators often estimate projected operating expenses by multiplying the projected investment in the network by an annual cost factor (ACF). An ACF typically is a ratio of current expenses to current investment for a particular account. The ratio is multiplied by the projected investment to obtain the projected expenses. An alternative method of calculating monthly operating costs is to look at current operating expenses and make any adjustments that reflect anticipated experience in the period for which the projection is made, such as adjustments for productivity and inflation. We seek comment on these approaches to estimating expenses. Is one approach superior to the others? Under the network assumptions required by our TELRIC rules, is it correct to assume that expenses will be reduced in proportion to reductions in investment? Would such an assumption be more acceptable if we changed the network assumptions to more closely track an incumbent LEC's existing network? We request parties to explain whether it would be reasonable to assume that an incumbent LEC's current expenses represent the forward-looking costs of operating a network. We also request parties to identify if there are other approaches to projecting expenses that do not rely on an incumbent LEC's past experience. We invite parties to provide empirical evidence that demonstrates the factors that most influence the level of expenses.

43. If we find that the best method of projecting expenses is to make forward-looking adjustments to actual expenses, we seek comment on the type of adjustments that would be appropriate. If adjustments are made for inflation and productivity, how should those factors be measured? From what sources should this information be developed?

44. We ask parties to address any specific issues that arise in connection with estimating non-plant specific expenses, such as customer care or common overhead. How should these costs be allocated among different elements? Is it appropriate to allocate these costs to non-recurring charges, or should they be recovered only through recurring charges.

45. *Non-Recurring Charges.* Non-recurring costs may be thought of as the ''installation'' or ''set-up'' costs an incumbent LEC incurs processing and provisioning a competitive LEC order for a UNE. Non-recurring charges (NRCs) constitute an up-front cost to the competitive LEC that is generally not recoverable if it subsequently loses the end-user customer served with the UNE. Consequently, NRCs can be a barrier to entry, especially if they are unduly high.

46. There are two primary sets of issues that pertain to NRCs. The first set of issues relates to the costs an incumbent LEC should be permitted to recover for the activities needed to initiate service to a competitive LEC. We believe that consistency among the various components of rates is important. Using one set of network assumptions for recurring charges and a different set of network assumptions for NRCs potentially results in some over-recovery or under-recovery. Nevertheless, we are sensitive to the practical concern that network assumptions that depart significantly from an incumbent LEC's existing network might preclude recovery of the cost of non-recurring activities that would be required in establishing a competitive market. We ask parties to address whether our tentative conclusion that the pricing rules should more closely account for the real-world attributes of the routing and topography of and incumbent's network should apply with respect to NRCs and, if it does, whether this ensures that incumbent LECs will be able to recover all of their forward-looking costs of non-recurring activities.

47. A related issue is the relationship between NRCs for manual activities and an incumbent LEC's operational support systems (OSS). In light of our tentative conclusion, above, we seek comment on what assumptions should be made with respect to the capability of the incumbent LEC's OSS. Should OSS costs be recovered through expense factors or through a separate charge? If through a separate charge, how should that charge be calculated? Should incumbent LECs be permitted to recover through separate OSS charges the costs associated with systems that are used for both wholesale and retail services and, if so, how should regulators allocate OSS costs between these functions? Should all costs of making OSS available to competitors be borne by them or are there costs more appropriately spread among the incumbent LEC's retail customers as well?

48. We seek comment on which activities are susceptible to automation and on how state commissions should determine the costs of performing these activities. We request that parties comment on how, in addition to subjective opinions of subject matter experts, state commissions might develop more objective evidence on non-recurring costs. Would a shift to network assumptions that more closely track the incumbent LEC's existing network eliminate some of the speculation that often characterizes state proceedings? Is it appropriate to establish a presumption that an incumbent LEC's current practices with respect to non-recurring activities are efficient, or are an incumbent LEC's incentives to be efficient diminished when competitive LECs are the primary users of a particular activity?

49. The second main set of NRC issues relates to whether non-recurring costs should be recovered through NRCs or through recurring charges. Generally, the non-recurring costs at issue are labor costs, such as the cost of sending a technician to a particular location to enable the competitive LEC to provide service to a particular end-user. One possible solution to this issue would be to limit recovery through NRCs to those costs that exclusively benefit the competitive LEC ordering the UNE. The cost of activities for which NRCs would not be permitted generally would be recovered in recurring charges through expense factors. We seek comment on this approach. What affect would this approach have on the number of activities for which NRCs would be permitted? How would such an approach be implemented by the states? Although such an approach would reduce the likelihood that NRCs would impose a barrier to competitive entry, would it also provide incumbent LECs with full recovery of their forward-looking costs? Under this approach to NRCs, would there be cost double recovery issues between expenses and NRCs with regard to carriers that already paid the NRCs and would now be paying for the costs again through ACFs in recurring charges?

50. We solicit comment on whether a contrary approach, allowing NRCs for every activity related to a competitive LEC order, would provide sufficient incentive for incumbent LECs to use mechanized processes when it is efficient to do so. Would such an approach increase the risk of over-recovery by the incumbent? Would regulators need to develop mechanisms

to back out these costs in developing expense factors? Would it be necessary to develop some type of refund mechanism if other carriers also benefit from the work? Parties that oppose limiting the activities for which NRCs are permitted should suggest practical methods for making such adjustments.

51. We invite parties to offer other suggestions on principles that states could apply to identify when it is appropriate to recover costs through NRCs, and the consequences of those principles on competitive entry and cost recovery. For example, of what relevance are the NRCs imposed by incumbent LECs on retail customers? Would eliminating or reducing the allocation of common costs and overhead to activities for which NRCs are imposed resolve concerns about the level of NRCs?

52. Beyond these general NRC issues, we seek comment on some specific issues. We request that parties comment on whether disconnection costs should be recovered as a separate cost at the time of disconnection or if they should be recovered through a NRC imposed at the time of installation. We ask that parties provide empirical evidence with respect to the frequency with which facilities actually are disconnected and the costs are not recovered through other charges. We ask parties that favor recovering disconnection costs at the time of installation to explain how to reflect the time value of money in calculating the costs at the time of installation and to explain whether there are other factors that outweigh the consequences of having an intentional mismatch between costs and revenues (caused by recovering the costs before they are incurred).

53. A second specific issue on which we seek comment is loop conditioning. In the *Triennial Review Order,* the Commission stated that state commissions have discretion to determine whether loop conditioning costs are forward-looking costs, and whether those costs should be recovered through recurring or non-recurring charges. We ask parties to comment on when and how the costs associated with loop conditioning should be recovered through recurring or non-recurring charges. We noted in the *Triennial Review Order* that one option available to state commissions would be to permit NRCs for loop conditioning only in extraordinary circumstances, such as copper loops that are longer than 18,000 feet. We seek comment on whether this is a useful distinction. We also seek comment on how, if at all, should such NRCs be distributed among the competitive LEC requesting conditioning and the future carriers that provide digital subscriber line service over the conditioned loop.

54. *Rate Structure.* The current rules contain a variety of requirements regarding how UNE rates should be structured. 47 CFR 51.509. We seek comment on whether, and under what circumstances, changes are needed to our rate structure requirements. For example, would it be appropriate to require switching costs or shared transport costs to be recovered solely through flat-rated charges?

55. *Rate Deaveraging.* The Commission's current rules require that UNE rates be geographically deaveraged into at least three cost-based rate zones, and do not permit ''class-of-service'' deaveraging. We seek comment on whether, given the Commission's limited ability to influence or control retail local exchange rates, changes to our deaveraging policies with respect to UNEs are necessary to achieve the Commission's goal of sending appropriate economic signals with respect to competitive entry and investment or are there alternative steps the Commission might take. We seek comment on whether, and under what circumstances we should retain the requirement of geographic deaveraging. What are the consequences of deaveraging UNE prices in states where retail rates are not similarly deaveraged? Would it be appropriate to require deaveraging only in states where retail rates are deaveraged? Can such an approach be reconciled with the cost-based pricing standard contained in section 252(d)? We also seek comment on whether, and under what circumstances, to retain the requirement to average rates across different classes of service. Parties that favor elimination or modification of this requirement should present evidence demonstrating that the costs of serving different classes of customers are sufficiently different to warrant deaveraging of those rates. Also, we seek comment on whether deaveraging UNE rates across classes of customers is appropriate is retail rates do not reflect these same cost differences.

56. *Rate Changes Over Time.* UNE pricing proceedings require a substantial commitment of resources from everyone involved and typically take a considerable time to complete. We ask parties to comment on whether there might be mechanisms that could be used to adjust prices over time, thereby reducing the need for state commissions to conduct a full UNE pricing proceeding every few years. Would an approach, similar to many price cap regimes, which periodically adjust rates based on productivity and inflation factors work for UNE prices and, if so, how? In particular, we ask parties how productivity factors might be calculated. We invite parties to produce empirical evidence regarding productivity, such as productivity studies, that could be used to establish productivity factors if we pursue this approach. We also seek comment on, if the use of productivity factors to adjust rates periodically is feasible, whether it should be mandatory and whether it satisfies a state's legal obligations under section 252. Are there methods other than the use of productivity factors that could be used to make periodic rate adjustments?

57. *Resale Pricing.* Section 252(d)(3) of the Telecommunications Act of 1996 requires that state commissions establish wholesale rates for resold services based on the incumbent LEC's retail rates, ''excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.'' 47 U.S.C. 252(d)(3). The Commission's original resale pricing rules were vacated the by U.S. Court of Appeals for the Eighth Circuit, which found that the appropriate standard for determining avoided costs is not those costs that ''can be avoided,'' but rather ''those costs that the [incumbent LEC] will actually avoid in the future.'' *Iowa Utils. Bd.* v. *FCC,* 219 F.3d 744, 755 (8th Cir. 2000). In light of this decision, we ask parties to comment on the need for the Commission to adopt new rules implementing section 252(d)(3). Is the statutory language, as interpreted by the Eighth Circuit, sufficiently clear that further guidance from the Commission is unnecessary? Parties that favor the establishment of national rules should explain what those rules would require. Is it necessary or helpful for the Commission to identify categories of costs that either are or are not presumptively avoided? Parties that favor the Commission establishing this type of presumption should provide objective evidence demonstrating the type of costs that incumbent LECs actually avoid when they provide services to competitors for resale. For example, how should common costs be treated?

58. We ask parties to discuss whether it is necessary, or helpful, for the Commission to establish evidentiary guidelines with respect to the resale discount. Should incumbent LECs be obligated to file cost studies in support of their proposed discounts, or are there alternative showings that might be sufficient? If studies are required, what level of detail should they contain?

Must direct and indirect costs be specifically identified?

59. Finally, we ask parties to address whether the subscriber line charge should be subject to the resale discount.

60. *Interconnection Pricing and Reciprocal Compensation.* Under section 252(d)(1), interconnection is subject to the same cost-based pricing standard as UNEs. We ask parties to comment on whether there is any reason that changes to the current pricing rules for UNEs should not also apply to interconnection provided pursuant to section 251(c)(2). We note that the Commission is considering issues related to the costs associated with interconnecting networks in the pending *Intercarrier Compensation NPRM,* 66 FR 28410, May 23, 2001. Parties are invited to comment on the relationship between the section 251(d)(1) pricing standard and the proposals for recovery of interconnection costs that are now under consideration in that proceeding. We also invite parties to comment on issues related to the pricing of collocation, which is also subject to the section 252(d)(1) pricing standard. For example, we solicit comment on whether charges for direct current (DC) power should be based on the number of amps consumed or the number of amps fused. Finally, we ask parties to address whether the Commission should continue to apply the same pricing rules to UNEs and to reciprocal compensation. What would be the consequences of having different pricing regimes for these two different functions?

61. *Implementation Issues.* We ask parties to comment on how any changes to the Commission's UNE pricing rules should be implemented by the states. We ask parties to explain how state commissions have proceeded in establishing prices under section 252(d)(1).

62. We seek comment on whether we should establish a national timetable pursuant to which states will conduct new UNE cost proceedings to reset all rates in accordance with any new rules. If we establish a timetable for initiating new UNE rate proceedings, should we require that such proceedings be resolved within a certain time period, consistent with our direction to the states to perform the granular inquiries set forth in the *Triennial Review* proceeding? If so, is a nine-month time period sufficient to establish new UNE prices? What recourse should carriers have if a state fails to act in the allotted time?

63. We also seek comment on whether to establish a true-up mechanism for the difference between what a competitor pays for network elements under rates established pursuant to the current TELRIC rules and what that competitor would pay for the same facilities or services under rates established pursuant to any new rules we may adopt in this proceeding. If a true-up mechanism is appropriate, to what period should any true-up be applicable? Should the beginning of the true-up period be the effective date of the final Commission order in this proceeding? Or is some other true-up period more appropriate?

Procedural Matters

Paperwork Reduction Act

64. This Notice of Proposed Rulemaking (NPRM) does not contain proposed or modified information collection requirements.

Initial Regulatory Flexibility Act Analysis

65. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. The RFA, *see* 5 U.S.C. 601 *et seq.,* has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided below. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) are being published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

66. In this NPRM, the Commission initiates the first comprehensive review of TELRIC pricing rules since they were adopted. Section 252(d)(1) of the Act sets forth the pricing standard for UNEs. Section 252(d)(3) of the Act requires that state commissions establish wholesale rates for resold services based on the incumbent LEC's retail rates. Seven years ago, the Commission adopted its current rules that base UNE prices on the Total Element Long Run Incremental Cost (TELRIC) of a UNE. *Local Competition First Report and Order,* 61 FR 52706, October 8, 1996. The Commission stated at that time that it would continue to review its pricing rules based on the results of state arbitration proceedings and provide additional guidance as necessary.

67. Based on the wealth of experience that has been developed over the last seven years, the Commission initiates this proceeding to consider whether the TELRIC methodology for pricing UNEs under the Act is working as intended and whether it is conducive to efficient facilities investment. The Commission also requests comment in this proceeding on its resale pricing rules. Incumbent LECs are required to resell retail services pursuant to section 251(c)(4) of the Act. This NPRM seeks to preserve the forward-looking emphasis and pro-competitive purposes of TELRIC, while simplifying this methodology. The Commission's objective is to help state commissions more easily develop UNE prices and resale discounts that meet the statutory standards established by Congress in section 252(d) and to provide more certainty and consistency in the results of these state proceedings.

68. Although the Commission has addressed some specific TELRIC cost input disputes as they have arisen in section 271 proceedings, the Commission's disposition has provided no systematic guidance on pricing issues. This proceeding will provide states and interested parties comprehensive guidance lacking in our consideration of section 271 applications. In the *Triennial Review Order,* the Commission clarified the existing rules regarding two key components of TELRIC—cost of capital and depreciation.

69. Because of the general nature of the Commission's rules and the hypothetical and complex nature of the TELRIC inquiry, it is often difficult to understand how actual UNE rates are derived. Uncertainty or inconsistency in how to apply TELRIC rules may also result in rates that significantly vary from state to state without regard to genuine cost differences. This lack of predictability in UNE rates is difficult to reconcile with the Commission's desire that UNE prices send correct economic signals for competitive and investment purposes. This NPRM seeks to simplify TELRIC pricing, provide more specific guidance to make the TELRIC rate-setting process less speculative and improve the accuracy of its pricing signals.

Legal Basis

70. This NPRM is adopted pursuant to sections 1, 4(i), (4j), 201–205, 251, 252,

and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, 251, 252, and 303.

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

71. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The term ''small governmental jurisdiction'' is defined as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' 15 U.S.C. 632. As of 1997, there were about 87,453 governmental jurisdictions in the United States. This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer. We also note that the term ''small governmental jurisdiction'' includes state regulatory bodies commonly known as state public utilities commissions or public service commissions which may be directly affected by this NPRM.

72. In this section, we further describe and estimate the number of small entity licensees and regulatees that may also be indirectly affected by rules adopted pursuant to this NPRM. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

73. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a wired telecommunications carrier having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

74. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small.

75. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,329 carriers reported that they were engaged in the provision of local exchange services. Of these 1,329 carriers, an estimated 1,024 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

76. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to ''Other Local Exchange Carriers,'' all of which are discrete categories under which TRS data are collected. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 532 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 532 companies, an estimated 411 have 1,500 or fewer employees and 121 have more than 1,500 employees. In addition, 55 carriers reported that they were ''Other Local Exchange Carriers.'' Of the 55 ''Other Local Exchange Carriers,'' an estimated 53 have 1,500 or fewer employees and two have more than 1.500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and ''Other Local Exchange Carriers'' are small entities that may be affected by the rules and policies adopted herein.

77. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 229 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 229 companies, an estimated 181 have 1,500 or fewer employees and 48 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

78. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to operator service providers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 22 companies reported that they were engaged in the provision of operator services. Of these 22 companies, an estimated 20 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission

estimates that the great majority of operator service providers are small entities that may be affected by the rules and policies adopted herein.

79. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to payphone services providers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 936 companies reported that they were engaged in the provision of payphone services. Of these 936 companies, an estimated 933 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the great majority of payphone service providers are small entities that may be affected by the rules and policies adopted herein.

80. *Prepaid Calling Card Providers.* The SBA has developed a size standard for a small business within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 32 companies reported that they were engaged in the provision of prepaid calling cards. Of these 32 companies, an estimated 31 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the great majority of prepaid calling card providers are small entities that may be affected by the rules and policies adopted herein.

81. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to ''Other Toll Carriers.'' This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 42 companies reported that their primary telecommunications service activity was the provision of payphone services. Of these 42 companies, an estimated 37 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that most ''Other Toll Carriers'' are small entities that may be affected by the rules and policies adopted herein.

82. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of Paging and Cellular and Other Wireless Telecommunications. Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1320 firms in this category, total, that operated for the entire year. Of this total, 1303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the great majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the great majority of firms can, again, be considered small.

83. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Based on this information, the Commission concludes that the number of small broadband PCS licenses will include the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F Block auctions, the 48 winning bidders in the 1999 re-auction, and the 29 winning bidders in the 2001 re-auction, for a total of 260 small entity broadband PCS providers, as defined by the SBA small business size standards and the Commission's auction rules. Consequently, the Commission estimates that 260 broadband PCS providers are small entities that may be affected by the rules and policies adopted herein.

84. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order.* A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future actions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's rules. The Commission assumes, for purposes of this analysis, that a large portion of

the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

85. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to ''Cellular and Other Wireless Telecommunications'' companies. This standard provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

86. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* we adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

87. *800 MHz and 900 MHz Specialized Mobile Radio Licenses.* The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had revenues of no more than $3 million in each of the previous calendar years. The SBA has approved these size standards. The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz bands to firms that had revenues of no more than $40 million in each of the three previous calendar years, or that had revenues of no more than $15 million in each of the previous calendar years. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities. Consequently, the Commission estimates that there are 301 or fewer small entity SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein.

88. *Paging.* In the *Paging Third Report and Order,* we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* 471 carriers reported that they were engaged in the provision of either paging and messaging services or other mobile services. Of those, the Commission estimates that 450 are small, under the SBA business size standard specifying that firms are small if they have 1,500 or fewer employees.

89. *700 MHz Guard Band Licensees.* In the 700 MHz Guard Band Order, we adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

90. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to

the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

91. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We will use SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

92. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

93. *Fixed Microwave Services.* Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

94. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

95. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity. We conclude that the number of geographic area WCS licensees affected by this analysis includes these eight entities.

96. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and polices adopted herein.

97. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS.* Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program

Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

98. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for ''very small business'' was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

99. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* we established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. The SBA has approved these size standards. We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum.

100. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of ''Cellular and Other Wireless Telecommunications'' companies. This category provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

101. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

102. *Internet Service Providers.* While internet service providers (ISPs) are only indirectly affected by our present actions, and ISPs are therefore not formally included within this present IRFA, we have addressed them informally to create a fuller record. The SBA has developed a small business size standard for Online Information Services, which consists of all such companies having $21 million or less in annual receipts. According to Census Bureau data for 1997, there were 2,751 firms in this category, total, that operated for the entire year. Of this total, 2,659 firms had annual receipts of $9,999,999 or less, and an additional 67 had receipts of $10 million to $24,999,999. Thus, under this size standard, the great majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

103. We do not intend that any proposal we may adopt pursuant to this NPRM will increase existing reporting, recordkeeping or other compliance requirements. Rather, we seek to simplify TELRIC pricing and modify or clarify the Commission's rules to help state commissions more easily develop UNE prices and resale discounts that meet the statutory standards established by Congress in section 252(d) and to provide more certainty and consistency in state proceeding outcomes.

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

104. The RFA requires an agency to describe any significant, specifically small business, 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.

105. We will consider any proposals made to minimize significant economic

impact on small entities. The overall objective of this proceeding is to simplify TELRIC pricing while simultaneously improving the accuracy of its pricing signals. The NPRM seeks comment on an approach that bases UNE prices on a cost inquiry that is more firmly rooted in the real-world attributes of the existing telecommunications network, rather than the speculative attributes of a purely hypothetical network. This may change the standards applicable to cost studies on which UNE prices are based and indirectly result in changes to rates for UNEs that competitive LECs, including small carriers, order from incumbent LECs.

106. State commissions stand to benefit directly to the extent that we clarify our TELRIC rules and provide more specific guidance so that state proceedings to determine UNE pricing and the resale discount become a less complex and speculative process. Providing greater certainty and consistency in how to apply our rules could help make the regulatory process throughout states more efficient and streamlined, indirectly benefiting small entities which participate in these proceedings. Complicated and time-consuming proceedings may work to divert scarce resources from small carriers that otherwise would use those resources to compete in local markets. Moreover, to the extent that we may be able to enhance the TELRIC ratemaking process, we may better be able to achieve the Commission's goal of sending appropriate economic signals to the marketplace for efficient competition and entry among providers that include small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

107. None.

Ex Parte Presentations

108. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules. 47 CFR 1.1206(b).

Comment Filing Procedures

109. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments not later than December 16, 2003, and may file reply comments not later than January 30, 2004. In order to facilitate review of comments and reply comments, parties should include the name of the filing party and the date of the filing on all pleadings. Comments and reply comments must clearly identify the specific portion of the NPRM to which a particular comment or set of comments is responsive. Each new section should begin on a new page. If a portion of a party's comments does not fall under a particular topic listed in the Table of Contents, such comments should be included in a clearly labeled section at the beginning or end of the filing.

110. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply.

111. Parties who choose to file by paper must file an original and five copies of each filing. Two (2) copies of the comments should also be sent to the Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

112. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be sent to 445 12th Street, SW., Washington, DC 20554. The Commission advises that electronic media not be sent through USPS. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

113. Documents in this docket are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from Qualex International, telephone (202) 863–2893, facsimile (202) 863–2898.

Ordering Clauses

114. *It is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 251, 252, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, 251, 252, and 303, notice is hereby given of the rulemaking described above and comment is sought on those issues.

115. *It is further ordered* that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–26107 Filed 10–16–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 101003B]

Pelagic Fisheries Managed Under the Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region

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

ACTION: Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS); notice of scoping meetings; request for written comments.

SUMMARY: The NMFS and the Western Pacific Fishery Management Council, (Council), announce their intent to prepare an SEIS in accordance with the National Environmental Policy Act of 1969 (NEPA) on the Federal management of pelagic fishery resources in the waters of the United States exclusive economic zone, (EEZ), around the State of Hawaii, the territories of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands (CNMI) and several western Pacific remote islands and atolls under direct Federal jurisdiction.

The NMFS will convene public scoping meetings to solicit comments on pelagic fishery issues and potential management options related to those issues. The scope of the EIS analysis will include, among other things, interactions of fisheries managed under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP).

The scoping meetings will provide for public input on the issues, range of alternatives, and impacts the SEIS should consider. Written comments will also be accepted concerning the various management options the SEIS should consider.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of the meetings.

ADDRESSES: Written comments on the issues, priorities, range of alternatives, and impacts that should be discussed in the SEIS may be sent to Sam Pooley, Acting Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Comments may be sent via facsimile (fax) at 808–973–2941 and must be received by December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, NMFS, 808–973–2937.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the United States has exclusive management authority over all living marine resources found within the EEZ. The management of these marine resources with the exception of sea birds and some marine mammals, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The Council has the responsibility to prepare fishery management plans for fishery resources in the EEZ of the Western Pacific Region. NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment.

The pelagics fishery resources that occur in the EEZ waters of the Western Pacific Region, have been managed under the Pelagics FMP and its amendments since 1986. Managed resources include both marketable, (primarily billfish and tunas), and non-marketable, (primarily sharks), species. Fisheries managed include pelagic longline, troll, handline, pole-and-line (bait boat), and charter boat fisheries. Management measures employed include gear restrictions, vessel size limitations, time and area closures, access limitations and other measures.

The largest fishery managed under this plan is the Hawaii-based, limited-access pelagic longline fishery. Emergency regulations imposed on this fishery in 2001, and subsequent final regulations promulgated in 2002 eliminated the ''shallow set'' component of this fishery that targeted swordfish. The remaining component of this fishery is a ''deep set'' tuna-targeting fishery. On August 31, 2003, a Memorandum Opinion issued in *Hawaii Longline Assoc.* v. *NMFS*, (D. D.C., Civ No. 01–765), invalidated the June 12, 2002 (67 FR 40232), final regulations as well as the November 15, 2002, Biological Opinion for Pelagic Fisheries of the Western Pacific and the associated incidental take statement. This had the immediate effect of leaving the Pelagics FMP in place without restrictions that NMFS had concluded in March 2001 were necessary to eliminate the likelihood that fishing pursuant to the Pelagics FMP would jeopardize the continued existence of species listed under the Endangered Species Act (ESA). To avoid this disruption, on October 6, 2003, the Court postponed the effectiveness of its action until April 1, 2004, to allow the agency to take appropriate action. Consequently, NMFS and the Council are considering fishery management measures to comply with ESA requirements for sea turtle protection. During the week of October 20, 2003, the Council is expected to consider longer-term proposals for the fishery.

The regulatory situation is thus subject to change. Additionally, recent research has identified practical measures (e.g., bait-setting chute; side-setting operations) that have significant potential for reducing interactions of the longline fleet with seabirds. As a consequence, it is now appropriate to re-examine in an SEIS the management measures imposed to minimize interactions between the Hawaii-based longline fishery and protected species. Also, since publication of the EIS for the Pelagics FMP, issues associated with marlins (billfish) and fish aggregating devices have surfaced, and a new industrial-scale squid fishery has emerged in Hawaii. The environmental impacts and need for management to address these matters are currently unknown. These issues will also be examined in the SEIS.

Comments and public input on any and all aspects of Pelagics FMP management are solicited and will be accepted during scoping. Input is especially sought on priorities to apply in addressing management issues and initiatives. The agency anticipates that certain measures will require expedited treatment. Others may be addressed on a longer timetable.

Public Involvement

Public scoping is an early and open process for determining the scope of issues to be addressed. A principle objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

Alternatives

Scoping is being conducted to establish a reasonable range of alternatives, which may include modification of the current management regimes for the Hawaii-based longline fishery including, but not limited to, gear restrictions and requirements, time and area closures, limited access permits and reporting requirements, and catch limits; inclusion of certain squid species as Management Unit Species under the Pelagics FMP; and imposition

on the squid fishery of management measures including, but not limited to, observer coverage and reporting requirements. In addition to developing possible alternatives, the scoping meetings will serve to identify and eliminate the issues which are not significant or which have been covered by prior environmental review.

Dates, Times, and Locations for Public Scoping Meetings

1. Tuesday, October 21, 2003, at 6 p.m. at Fisherman's Wharf Restaurant, 1009 Ala Moana Blvd. Honolulu, HI;

2. Monday, October 27, 2003, at 7 p.m. at the Chiefess Kamakahelei Middle School, 4431 Nuhou St., Lihue, Kauai, HI;

3. Tuesday, October 28, 2003, at 7 p.m. at the Maui Beach Hotel, 170 Kaahumanu Ave., Kahului, Maui, HI;

4. Thursday, October 30, 2003, at 7 p.m. at the King Kamehameha Hotel, 75–5660 Palani Rd., Kailua-Kona, HI;

5. Thursday, November 6, 2003, at 7 p.m. at the Department of Marine Resources and Wildlife Conference Room, Dockside, Pago Pago Harbor, American Samoa;

6. Wednesday, December 3, 2003, 7 p.m. at the Pedro P. Tenorio Multipurpose Bldg., Susupe, Saipan, CNMI;

7. December 4, 2003, 7 p.m. at the Guam Fisherman's Cooperative, Lot 12 section 4, Greg D. Perez Marina, Hagatna, Guam.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Alvin Katekaru, 808–973–2937 (voice) or 808–973–2941(fax), at least five days prior to the meeting date.

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

Dated: October 10, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–26295 Filed 10–14–03; 2:35 pm]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 201
Friday, October 17, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Chugach National Forest, Resurrection Creek Stream and Riparian Restoration Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Forest Service, Chugach National Forest will prepare a Draft Environmental Impact Statement to disclose the environmental consequences of the proposed Resurrection Creek Stream and Riparian Restoration Project which encompasses approximately 120 acres of National Forest System Land (NFS) and approximately 18 acres of adjacent private lands. Historic placer mining operations have affected Resurrection Creek by straightening and simplifying the stream, and separating it from its floodplain. These impacts have degraded fish rearing and spawning habitat on Resurrection Creek, as well as adjacent wildlife riparian habitat for species such as bears and eagles. Natural recovery from mining impacts has been minimal on this segment of Resurrection Creek. The proposed project would greatly accelerate the recovery of riparian areas, and fish and wildlife habitat on Resurrection Creek. In order to move towards the desired future condition as described in the Chugach National Forest Land and Resource Management Plan as well as meet the purpose and need of the project proposal to restore Resurrection Creek's channel, floodplain and streamside vegetation to pre-mining conditions and enhance fish and riparian wildlife habitat, proposed activities include: (1) Providing access for heavy equipment, which might include a temporary bridge or stream crossing over Resurrection Creek and Palmer Creek; (2) mechanical manipulation and grading of up to 140,000 cubic yards of mine tailings to recover floodplain width and elevations; (3) excavation of a meandering river channel and adjacent side channels, including the development of a channel instream pools and spawning habitat; (4) harvesting up to 5,000 trees, with and without root wads, for use on the new river channel and floodplain. Trees would be taken primarily from the project area. If constraints to harvest at the project area are too high, additional off-site harvest in areas that have gone through a separate NEPA analysis might be needed; (5) replacing soils and organics stripped away during historic placer mining operations Soil enhancement would improve growing conditions for native plant communities in constructed floodplains and riparin areas. Soil and sod would likely be gathered from source areas both within and outside the project area; (6) thinning existing overstocked riparian sapling spruce and cottonwood stands adjacent to Resurrection Creek; (7) re-vegetation of native plant species on constructed floodplains and riparian areas. Natural re-vegetation (without planting) would be used where seed sources and site conditions are favorable. Where such conditions are lacking, the site would be planted; and (8) stockpiling excess tailings could occur within the project area or off-site.

DATES: Comments concerning the scope of the analysis must be received within 30 days of publication of this notice in the **Federal Register**. The draft environmental impact statement is expected to be available for public review in January 2004 and the final environmental impact statement is expected to be available in May 2004.

ADDRESSES: Submit written, oral, or email comments by: (1) Mail—Resurrection Creek Restoration Project, Dave Blanchet, 3301 C Street, Suite 300, Anchorage, Alaska, Zip Code 99503–3998. (2) phone—(907) 743–9538; (3) e-mail—*dblanchet@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dave Blanchet at (907) 743–9538.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose and need for action of the Resurrection Creek Stream and Riparian Restoration Project is to accelerate the recovery of riparian areas, and fish and wildlife habitat on a 0.8 mile segment of Resurrection Creek. Natural recovery from mining impacts has been minimal on this segment of Resurrection Creek. Historic placer mining operations have affected Resurrection Creek by straightening and simplifying the stream, and separating it from its floodplain. These impacts have degraded fish rearing and spawning habitat on Resurrection Creek, as well as adjacent wildlife riparian habitat for species such as bears and eagles. Natural recovery from mining impacts has been minimal on this segment of Resurrection Creek. The proposed project would greatly accelerate the recovery of riparian areas, and fish and wildlife habitat on Resurrection Creek. There is a need to examine a portion of the creek immediately downstream of the project area on private land within the Haun Trust lands. Additional restoration activities may be implemented on the Haun Trust lands in lieu of gaining access to the project area through this site.

Proposed Action

The proposed actions to meet the purpose and need include: (1) Providing access for heavy equipment, which might include a temporary bridge or stream crossing over Resurrection Creek and Palmer Creek; (2) mechanical manipulation and grading of up to 140,000 cubic yards of mine tailings to recover floodplain width and elevations; (3) excavation of a meandering river channel and adjacent side channels, including the development of a channel with instream pools and spawning habitat; (4) harvesting up to 5,000 trees, with and without root wads, for use on the new river channel and floodplain. Trees would be taken primarily from the project area. If constraints to harvest at the project area are high, additional off-site harvest in areas that have gone through a separate NEPA analysis might be needed; (5) replacing soils and organics stripped away during historic placer mining operations. Soil enhancement would improve growing conditions for native plant communities in constructed floodplains and riparian areas. Soil and sod would likely be gathered from source areas both within and outside the project area; (6) thinning existing overstocked riparian sapling spruce and cottonwood stands

adjacent to Resurrection Creek; and (7) re-vegetation of native plant species on constructed floodplains and riparian areas. Natural re-vegetation (without planting) would be used where seed sources and site conditions are favorable. Where such conditions are lacking, the site would be planted.

Responsible Official

The responsible official for the Resurrection Creek Stream and Riparian Restoration Project is Joe Meade, Forest Supervisor, Chugach National Forest.

Nature of Decision To Be Made

The Resurrection Creek Restoration environmental impact statement will evaluate site specific management proposals, consider alternatives, and analyze the effects of the activities proposed in these alternatives. It will form the basis for the Responsible Official to determine: (1) Whether or not the proposed activities and alternatives are responsive to the issues, are consistent with Forest Plan direction, meet the purpose and need, and are consistent with other related laws and regulations directing National Forest Management Activities; (2) which actions, if any, to approve; (3) and, whether or not the information in the analysis is sufficient to implement proposed activities.

Scoping Process

Two previous scoping efforts have occurred for this project. The first effort began on February 5, 2003, and the second on June 6, 2003. Since these scoping comment opportunities were provided to the public, the Forest Service has gathered more information regarding this proposal. Subsequently the Forest Service has determined that the appropriate level of analysis for this proposal is an environmental impact statement.

Comments will be accepted during the 30-day scoping period as described in this notice of intent. Those who provided comments to the previous scoping notices that wish to supplement their earlier comments are encouraged to do so. However, previous comments on this proposal will still be used in the analysis process. Comments will be reviewed and issues identified. Issues that cannot be resolved by mitigation or minor changes to the proposed action may generate alternatives to the proposed action. This process is driven by comments received from the public, other agencies, and internal Forest Service concerns. To assist in commenting, a scoping letter providing more detailed information on the project proposal has been prepared and is available to interested parties. Contact Dave Blanchet, at the address listed in this notice of intent if you would like to receive a copy.

Preliminary Issues

Some preliminary issues have been identified based on past public scoping efforts for the project area, issues developed for similar projects, and Forest Service concerns and opportunities identified by resource specialist. These issues include the following:

1. Direct short term impacts to fish and their habitat from construction activities. Possible impacts to fish and their habitat are temporary loss of habitat, turbidity during construction activities could cause gill abrasion. Some fish will be stranded and buried.

2. Methyl mercury may be present in the project reach. Mercury was used historically to separate fine gold from the ''black sands'' after the sands had been sorted from the stream gravels. Potential may exist for a release of methyl mercury during restoration which might be a hazard to fish, wildlife, and the public.

3. Presence of heavy equipment could impact landowners and their business during construction of the channel and floodplain. Restoration activities could impact nearby landowners and their business (resort) during construction through the presence of noise, odor, dust, and visual quality.

4. Lack of an easement through private lands on the east side of Resurrection Creek to the project area. Access to the project area requires crossing ¼ mile of a private land (Haun Trust Lands) immediately downstream from the project area. The Forest Service needs access to the east side of Resurrection Creek to implement the project. A temporary bridge or other type of crossing may be needed over Resurrection Creek, on its west wide in order to access an existing easement through the private lands.

5. Examine the potential of additional restoration/construction activities on private lands immediately downstream from the project area.

6. Recreational mining—Recreational mining has potential to damage/erode the channel after reconstruction is complete. There is a need to consider limitations on recreational mining activities that have potential to impact the newly created and vegetated stream banks. A potential limitation to this activity would be to issuing a closure order on recreation mining in the restoration area.

7. Heritage Resources—Construction activities have the potential for disturbing and/or damaging undiscovered mining artifacts and prehistoric cultural artifacts and sites within the project area.

8. Other issues include impacts to recreationists during construction, impacts to scenery during and after construction, impacts to water quality, impacts to fish and wildlife habitat, introduction of noxious weed, impacts to wetlands, and how to dispose of excess tailings.

These issues may be modified as additional issues are identified during scoping. A range of alternatives will be considered after public comments are received and analyzed.

Comments Requested

This notice of intent initiates the scoping process that guides the development of the environmental impact statement. Comments that are site-specific in nature are most helpful to resource professionals when trying to narrow and address the public's issues and concerns.

Early Notice of Importance of Public Participation in Subsequent 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, 553 (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 and concerns on 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.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: October 9, 2003.

Joe L. Meade,

Forest Supervisor.

[FR Doc. 03–26292 Filed 10–16–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Wednesday, November 5, 2003, at the Okanogan and Wenatchee National Forests Headquarters Office, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting we will discuss management of motorized recreation vehicle use and updates on implementation of the Northwest Forest Plan. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, (509) 662–4335.

Dated: October 8, 2003.

Paul Hart,

Designated Federal Official, Okanogan and Wenatchee National Forests.

[FR Doc. 03–26274 Filed 10–16–03; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments must be Received on or Before: November 16, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments of the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Skilcraft Savvy.
BK–1260 General Purpose Disinfectant Detergent—32 oz./7930–00–NIB–0176.
BK–1260 General Purpose Disinfectant Detergent—1 Gallon/7930–00–NIB–0177.
BK–1260 General Purpose Disinfectant Detergent—5 Gallon/7930–00–NIB–0178.
BK–1260 General Purpose Disinfectant Detergent—55 Gallon/7930–00–NIB–0179.
BK–14 Heavy Duty Degreasing Detergent—32 oz./7930–00–NIB–0144.
BK–14 Heavy Duty Degreasing Detergent—1 Gallon/7930–00–NIB–0145.
BK–14 Heavy Duty Degreasing Detergent—5 Gallon/7930–00–NIB–0146.
BK–14 Heavy Duty Degreasing Detergent—55 Gallon/7930–00–NIB–0147.
TR–43 Commercial Vehicle Cleaner—1 Gallon/7930–00–NIB–0127.
TR–43 Commercial Vehicle Cleaner—5 Gallon/7930–00–NIB–0142.
TR–43 Commercial Vehicle Cleaner—55 Gallon/7930–00–NIB–0143.

NPA: Susquehanna Association for the Blind and Visually Impaired, Lancaster, Pennsylvania Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Custodial Services, Naval Exchange, National Naval Medical Center, Bethesda, Maryland.

NPA: Opportunities, Inc., Alexandria, Virginia.

Contract Activity: Navy Exchange Service Command (NEXCOM), Virginia Beach, Virginia.

Service Type/Location: Janitorial/Custodial, Eugene Outpatient Clinic, Department of Veteran Affairs, Eugene, Oregon.

NPA: Garten Services, Inc., Salem, Oregon.

Contract Activity: VA Medical Center, Rosenburg, Oregon.

Service Type/Location: Janitorial/Custodial, Robert J. Dole U.S. Courthouse, Kansas City, Kansas.

NPA: Independence and Blue Springs Industries, Inc., Independence, Missouri.

Contract Activity: GSA, Service Contracts (6PEF–C), Kansas City, Missouri.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 03–26327 Filed 10–16–03; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and services previously furnished by such agencies.

EFFECTIVE DATE: November 16, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

Additions

On March 14, August 8, and August 15, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 12340, 47292, and 48879) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Markers, Liquid Impression.

7520–00–NIB–1677—Set/Medium Point (Black, Blue, Red, Green).
7520–00–NIB–1678—Medium Point (Black).
7520–00–NIB–1679—Medium Point (Red).
7520–00–NIB–1680—Medium Point (Blue).
7520–00–NIB–1681—Set/Extra Fine Tip (Black, Blue, Red, Green).
7520–00–NIB–1682—Extra Fine Tip (Black).
7520–00–NIB–1683—Extra Fine Tip (Red).
7520–00–NIB–1684—Extra Fine Tip (Blue).

NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.

Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Product/NSN: Markers, Permanent Impression.

7520–00–NIB–1667—Fine Tip (Black).
7520–00–NIB–1668—Fine Tip (Red).
7520–00–NIB–1669—Fine Tip (Blue).
7520–00–NIB–1670—Fine Tip (Green).
7520–00–NIB–1671—Set/Fine Tip (Black, Blue, Red, Green).
7520–00–NIB–1672—Ultra Fine Tip (Black).
7520–00–NIB–1673—Ultra Fine Tip (Red).
7520–00–NIB–1674—Ultra Fine Tip (Blue).
7520–00–NIB–1675—Ultra Fine Tip (Green).
7520–00–NIB–1676—Set/Ultra Fine Tip (Black, Blue, Red, Green).

NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.

Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Custodial Services, FAA, New Air Traffic Control Tower & Administrative Office Space, (Located on 3rd & 4th floor of the Old ATCT), Cleveland, Ohio.

NPA: Murray Ridge Production Center, Inc., Elyria, Ohio.

Contract Activity: Federal Aviation Administration, North Olmsted, Ohio.

Service Type/Location: Janitorial/Custodial, USDA Service Center, 3622 Avtech Parkway, Shasta Trinity National Forest, Redding, California.

NPA: Shasta County Opportunity Center, Redding, California.

Contract Activity: USDA, Northern Province Operations, Redding, California.

Service Type/Location: Landscaping Service, Department of Justice, Bureau of Prisons, Washington, DC.

NPA: Davis Memorial Goodwill Industries, Washington, DC.

Contract Activity: Department of Justice, Washington, DC.

Deletions

On August 15, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 48879) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

Product/NSN: Bag, Vacuum Cleaner, Disposable, M.R. 1001, M.R. 1002, M.R. 1003, M.R. 1004, M.R. 1005, M.R. 1006, M.R. 1007, M.R. 1008.
NPA: New York City Industries for the Blind, Inc., Brooklyn, New York.
Contract Activity: Defense Commissary Agency, Fort Lee, Virginia.
Product/NSN: Broom, Whisk, M.R. 909.
NPA: None currently authorized.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Dustpan, M.R. 995.
NPA: None currently authorized.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Egg Slicer, M.R. 843.
NPA: Alabama Industries for the Blind, Talladega, Alabama.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Fabric Softener Sheets, Reusable, M.R. 520.
NPA: Industries of the Blind, Inc., Greensboro, North Carolina.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Kitchen, Utensils, M.R. 821.
NPA: Cincinnati Association for the Blind, Cincinnati, Ohio.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Nylon & Plastic Kitchen Utensils, M.R. 839, M.R. 840.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, Washington.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Pencil, Mechanical, Dual Action, M.R. 052.
NPA: San Antonio Lighthouse, San Antonio, Texas.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Pens and Markers, M.R. 062, M.R. 063, M.R. 064, M.R. 065, M.R. 066, M.R. 067.
NPA: West Texas Lighthouse for the Blind, San Angelo, Texas.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Potpourri, M.R. 400, M.R. 401, M.R. 403.
NPA: Envision, Inc., Wichita, Kansas.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: PVA Mop, M.R. 1027.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, Washington.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Scrubber, M.R. 543.
NPA: Beacon Lighthouse, Inc., Wichita Falls, Texas.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Scrubber, Sponge, M.R. 548.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
NPA: New York City Industries for the Blind, Inc., Brooklyn, New York.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Towels, Seasonal, M.R. 1009.
NPA: Chester County Branch of the PAB, Coatesville, Pennsylvania.
Contract Activity: Defense Commissary Agency, Fort Lee, Virginia.
Product/NSN: Wipes, Scrubber, M.R. 588.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

Services

Service Type/Location: Food Service Attendant, Charleston Naval Weapons Station, Building 306, Charleston, South Carolina.
NPA: Goodwill Industries of Lower South Carolina, Inc., North Charleston, South Carolina.
Contract Activity: Department of the Navy.
Service Type/Location: Food Service Attendant, Charleston Naval Weapon Station, Building NS–43, Charleston, South Carolina.
NPA: Goodwill Industries of Lower South Carolina, Inc., North Charleston, South Carolina.
Contract Activity: Department of the Navy.
Service Type/Location: Food Service Attendant, Orlando Naval Training Center, Orlando, Florida.
NPA: Goodwill Industries of Central Florida, Orlando, Florida.
Contract Activity: Department of the Navy.
Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Memphis, Tennessee.
NPA: Shelby Residential and Vocational Services, Inc., Memphis, Tennessee.
Contract Activity: Department of the Army.

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 03–26328 Filed 10–16–03; 8:45 am]
BILLING CODE 6353–01–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into the cause of a benzoyl peroxide explosion and fire that occurred on January 2, 2003, at the Catalyst Systems facility in Gnadenhutten, Ohio, the United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 2 pm local time on October 29, 2003, at the George Washington University Conference Center's Third Floor Amphitheater, 800 21st Street, NW., Washington, DC.

At this meeting CSB staff will present to the Board a case study of this incident, which examines three key issues: Hazards of benzoly peroxide, reactive chemical hazards, and process safety management systems. The Board will also conduct other business; the Chief Operating Officer will provide an update on current CSB investigations, the status of the CSB FY '04 budget, and discuss the revision to the CSB's overtime policy. Finally, the General Counsel will present a proposed rule outlining the CSB organization.

After the staff presentation, the Board will allow time for public comment. Following the conclusion of the public comment period, the Board will consider whether to vote to approve the final case study.

All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions or findings should be considered final. Only after the Board has considered the

staff presentation and approved the staff report will there be an approved final record of this incident.

The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, at least 5 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board at (202) 261–7600, or visit our Web site at: *www.csb.gov.*

Ray Porfiri,

Deputy General Counsel.

[FR Doc. 03–26379 Filed 10–15–03; 11:14 am]

BILLING CODE 6350–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141–3244–03; I.D. 061703A]

RIN 0648–ZB55

Availability of Grant Funds for Fiscal Year 2004

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2004

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) announces a second availability of grant funds for Fiscal Year 2004. The purpose of this notice is to provide the general public with a single source of program and application information related to the Agency's competitive grant offerings, and it contains the information about those programs required to be published in the **Federal Register**. This second omnibus notice is designed to replace the multiple **Federal Register** notices that traditionally advertised the availability of NOAA's discretionary funds for its various programs. It should be noted that additional program initiatives unanticipated at the time of the publication of this notice may be announced through both subsequent **Federal Register** notices and the NOAA website: *http://www.ofa.noaa.gov/~amd/SOLINDEX.HTML*

DATES: Proposals must be received by the date and time indicated under each program listing in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Proposals must be submitted to the addresses listed in the **SUPPLEMENTARY INFORMATION** section for each program.

FOR FURTHER INFORMATION CONTACT: For a copy of the full funding opportunity announcement and/or application kit, please contact the person listed as the information contact under each program or access it via NOAA's website: *http://www.ofa.noaa.gov/~amd/SOLINDEX.HTML*

SUPPLEMENTARY INFORMATION: NOAA published its first omnibus notice announcing the availability of grant funds for both projects and fellowships/scholarships/internships for Fiscal Year 2004 in the **Federal Register** on June 30, 2003 (68 FR 38678). The evaluation criteria and selection procedures contained in the June 30, 2003 omnibus notice are applicable to this solicitation. For a copy of the June 30, 2003 omnibus notice, please go to: *http://www.ofa.noaa.gov/~amd/SOLINDEX.HTML*

Electronic Access

The full funding announcement for each program is available via website: *http://www.ofa.noaa.gov/~amd/SOLINDEX.HTML* or by contacting the program official identified below. These announcements will also be available through FedGrants at *http://www.fedgrants.gov*.

NOAA Project Competitions

This second omnibus notice describes funding opportunities for the following NOAA discretionary grant programs:

National Marine Fisheries Service

1. Bay Watershed Education & Training (B-WET) Program

Summary Description: The B-WET grant program is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the entire Chesapeake Bay watershed. Funded projects assist in meeting the Stewardship and Community Engagement goals of the Chesapeake 2000 Agreement. Projects support organizations that provide students ''meaningful'' Chesapeake Bay or stream outdoor experiences and professional development opportunities for teachers in the area of environmental education related to the Chesapeake Bay watershed.

Funding Availability: This solicitation announces that approximately $1.85M may be available in FY 2004 in award amounts to be determined by the proposals and available funds. The NOAA Chesapeake Bay Office (NCBO) anticipates that approximately 30 grants will be awarded with these funds. About $925,000 will be for proposals that provide opportunities for students (K through 12) to participate in a ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience. Of the amount available for this area of interest, about $100,000 will be awarded to smaller, community-based organizations that work at a local level to provide environmental education programs. About $925,000 will be for proposals that provide opportunities for Professional Development in the area of Environmental Education for Teachers within the Chesapeake Bay Watershed. The NCBO anticipates that typical project awards for ''Meaningful'' Bay or Stream Outdoor Experiences and Professional Development in the Area of Environmental Education for Teachers will range from $10,000 to $150,000. Proposals will be considered for funds greater than the specified range.

Statutory Authority: 16 U.S.C 661, 15 U.S.C. 1540.

CFDA: 11.457 Chesapeake Bay Studies, Education.

Application Deadline: Preliminary proposals must be received by 5 p.m. eastern standard time (EST) on November 17, 2003. Full proposals must be received by 5 p.m. EST on December 31, 2003.

Address for submitting Proposals: NOAA Chesapeake Bay Office; Education Coordinator; 410 Severn Avenue, Suite 107A; Annapolis, MD 21403.

Information Contact(s): Shannon Sprague: 410–267–5664 or shannon.sprague@noaa.gov.

Eligibility: Eligible applicants for both areas of interest (i.e., ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience and Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed) are K-through–12 public and independent schools and school systems, institutions of higher education, nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments in the Chesapeake Bay watershed.

Cost Sharing Requirements: Encouraged, but not required.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

2. Chesapeake Bay Fisheries Research Program.

Summary Description: The Chesapeake Bay Fisheries Research Program is a competitively based

program that supports research, monitoring, modeling and management addressing various aspects of Chesapeake Bay fisheries. The Chesapeake Bay is a complex and dynamic ecosystem that supports many fisheries that are economically important both regionally and nationally. The NOAA Chesapeake Bay Office (NCBO) established the Fisheries Steering Committee in 2001 to guide various Chesapeake Bay fisheries' issues including management and research in an ecosystem context. Funded projects foster our knowledge and understanding of the Chesapeake Bay ecosystem by: (1) providing biological information and life history characteristics for many individual Chesapeake Bay fisheries stocks, and (2) broadening the multispecies knowledge base for development of Fisheries Ecosystem Planning. All projects supported through this program will address recommendations of the Chesapeake Bay Fisheries Ecosystem Plan (*http://noaa.chesapeakebay.net/fisheries*) and provide timely (real-time) information for making resource management decisions in an ecosystem context.

Funding Availability: This solicitation announces that approximately $1.5M may be available in FY 2004 for cooperative agreements in amounts to be determined by the proposals and available funds. Proposals may be submitted for up to 3 years. However, funds will be made available for only a 12–month award period and any renewal of the award period will depend on submission of a successful proposal subject to merit review, adequate progress on previous award(s), and available funding to renew the award. It is the intent of the NCBO to renew funding for several projects currently being supported and to make awards with funding through this notice to these programs pending successful review of a new application package, and adequate progress reports and/or site visits.

Statutory Authority: 16 U.S.C. 661.

CFDA: 11.457, Chesapeake Bay Studies, Fisheries Research.

Application Deadline: Applicants are strongly encouraged to submit applications electronically through *http://www.grants.gov*, however, you may also submit your application to NOAA in paper format.

For electronic submission - Proposals must be received by 5 p.m. eastern time on December 1, 2003. Proposals received after that time will not be considered for funding. Users of Grants.gov will be able to download a copy of the application package, complete it off line, and then upload and submit the application package and associated proposal information via the Grants.gov website.

For paper submission - proposals must be received by 5 p.m. eastern time on December 1, 2003. Proposals received after that time will not be considered for funding. NCBO determines whether an application has been submitted before the deadline by date/time stamping the applications as they are physically received in the NCBO office.

Address for submitting Proposals: Electronic submission online: *http://www.grants.gov/*

Paper submission: Derek M. Orner, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403.

Information Contact(s): Derek M. Orner, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403, or by phone at 410–267–5676, or fax to 410–267–5666, or via internet at derek.orner@noaa.gov.

Eligibility: Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

Cost Sharing Requirements: No cost sharing is required under this program, however, the NCBO strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process. Priority selection will be given to proposals that propose cash rather than in-kind contributions.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

National Ocean Service

1. Geodetic Science and Applied Research (GSAR) Program

Summary Description: The GSAR Program represents an NOAA/NGS effort to conduct basic and applied research in the geodetic sciences that advances positioning operations and services in support of transportation and commerce on a national basis. This initial opportunity is focused on a specific problem: Three-Frequency Real-Time Kinematic (RTK) Positioning by Different Support Architectures. There are at least 8 additional priorities that will be addressed in the future in the GSAR Program.

Funding Availability: One award of no more than $65,000 is expected to be made through this announcement, depending on availability of funds.

Statutory Authority: Authority for the GSAR program is provided by the following: Coast and Geodetic Survey Act, Public Law 80–373, 33 U.S.C. 883d.

CFDA: 11.400, Applied Geodetic Research.

Application Deadline: Proposals must be received by the NGS no later than 5 p.m., EDT, November 17, 2003.

Address for submitting Proposals: Geodetic Services Division; NOAA National Geodetic Survey; N/NGS1; 1315 East-West Highway, Room 9356; Silver Spring, Maryland 20910–3282.

Information Contact(s): Gilbert J. Mitchell: 301–713–3228 ext. 114, or fax to 301–713–4176, or via internet at *Gilbert.Mitchell@noaa.gov*.

Eligibility: Eligible applicants are institutions of higher education and federally funded educational institutions such as the Naval Postgraduate School.

Cost Sharing Requirements: No cost sharing is required under this program.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Oceans and Atmospheric Research

1. The Gulf of Mexico Oyster Industry Program

Summary Description: It is the goal of the Gulf Oyster Industry Program to encourage multi-disciplinary research and extension projects that contribute directly to the efficiency and profitability of oyster-related businesses and to the safety of oyster products. It encourages multi-disciplinary approaches to meet the challenges faced by the oyster industry in producing wholesome seafood products. Oyster businesses seek innovative solutions at all producing and processing levels, including: production (landings), oyster disease diagnostics, harvesting, post-harvest treatment, processing, distribution, marketing, consumer education, and food safety.

Funding Availability: Approximately $1 million is available for the Gulf Oyster Industry competition in 2004 and a similar amount is expected but not assured for FY–2005, therefore, two-year projects will be considered. Proposals are limited to a total of

$200,000 for each year and approximately 7 full proposals will be funded.

Statutory Authority: 33 U.S.C. 1121–1131.

CFDA: 11.417, Sea Grant Support.

Application Deadline: Pre-proposals must be received by 5 p.m. (local time) on December 1, 2003 and full proposals by 5 p.m. (local time) February 3, 2004 by a state Sea Grant Program [or by the National Sea Grant Office (NSGO) in the case of an applicant in a non-Sea Grant state]. Applications are to be forwarded to the NSGO by the state Sea Grant Programs by 5 p.m. EST on December 8, 2003 for pre-proposals and by 5 p.m. EST February 10, 2004 for full proposals.

Address for submitting Proposals: Prospective applicants living in Sea Grant States should submit their preliminary and full proposals to the their state's Sea Grant program. Addresses for state Sea Grant programs are available at www.mdsg.umd.edu/ngo/research or by contacting NOAA at National Sea Grant College Program, R/SG, Attn: Gulf Oyster Industry Competition, Room 11838, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301–713–2451. Applicants from non-Sea Grant states should send preliminary and full proposals to the above address.

Information Contact(s): James P. McVey, Program Director for Aquaculture, or Mary Robinson, Secretary, National Sea Grant Office, 301–713–2451, facsimile 301–713–0799, e-mail-Jim.McVey@NOAA.gov.

Eligibility: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, State, local and Indian tribal governments, are eligible. Only those who submit preliminary proposals by the preliminary proposal deadline are eligible to submit full proposals. Those submitting preliminary proposals by the preliminary proposal deadline that are not recommended by the pre-proposal review process still are eligible to submit full proposals.

Cost Sharing requirements: Applicants are required to provide one dollar for every two of Federal funds.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

2. National Marine Aquaculture Initiative

Summary Description: The NOAA Office of Oceanic and Atmospheric Research, in cooperation with the National Sea Grant College Program, the National Marine Fisheries Service, and the National Ocean Service, is seeking preliminary proposals and full proposals in innovative research, policy and regulatory analysis and development, and outreach and demonstration for the development of marine and Great Lakes aquaculture in the United States.

Funding Availability: Depending upon appropriations, it is anticipated that $3.1 million will be available for proposals of one or two years duration. The maximum request for a single proposal is $400,000 for a one-year proposal and $800,000 for a two-year proposal. Approximately 10 awards will be made.

Statutory Authority: 33 U.S.C. 1121–1131

CFDA: 11.417, Sea Grant Support

Application Deadline: The pre-proposals are due by 5 p.m. (local time) on December 1, 2003 and full proposals are due by 5 p.m. (local time) on February 3, 2004 at a state Sea Grant Program [or by the National Sea Grant Office (NSGO) in the case of an applicant from a non-sea Grant state]. Applications are to be forwarded to the NSGO by the state Sea Grant Programs by 5 p.m. EST on December 8, 2003 for pre-proposals and by 5 p.m. EST on February 10, 2004 for full proposals.

Address for submitting Proposals: Prospective applicants living in Sea Grant States should submit their preliminary and full proposals to the their state's Sea Grant program. Addresses for state Sea Grant programs are available at www.mdsg.umd.edu/ngo/research or by contacting NOAA at National Sea Grant College Program, R/SG, Attn: Gulf Oyster Industry Competition, Room 11838, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301–713–2451. Applicants from non-Sea Grant states should send preliminary and full proposals to the above address.

Information Contact(s): James P. McVey, Program Director for Aquaculture, or Mary Robinson, Secretary, National Sea Grant Office, 301 713 2451, facsimile 301–713–0799, e-mail-Jim.McVey@NOAA.gov.

Eligibility: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, Federal, State, local and Indian tribal governments, are eligible. Only those who submit preliminary proposals by the preliminary proposal deadline are eligible to submit full proposals. Those submitting preliminary proposals by the preliminary proposal deadline that are not recommended by the pre-proposal review process still are eligible to submit full proposals.

Cost Sharing Requirements: None.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

NOAA Fellowships/Scholarships/Internships Competitions

This second omnibus notice describes funding opportunities for the following NOAA discretionary fellowship, scholarship, and internship programs:

Oceans and Atmospheric Research

1. Sea Grant - Industry Fellowship Program

Summary Description: The National Sea Grant College Program (Sea Grant) within OAR is seeking applications for one of its fellowship programs to fulfill its broad educational responsibilities and to strengthen the collaboration between Sea Grant and industry. The Sea Grant - Industry Fellowship is available to graduate students enrolled in either MS or PhD degree programs in institutions of higher education in the United States and its territories, with required matching funds from private industrial sponsors. Industry Fellows will work on research and development projects on topics of interest to a particular industry/company. In a true partnership, the student, the faculty advisor, the Sea Grant College or institute, and the industry representative will work together, sharing research facilities and the cost of the activity.

Funding Availability: Sea Grant anticipates awarding a total of $300,000 in Federal funds through this announcement by supporting five new Industry Fellows for two years beginning in FY 2004. The award for each Industry Fellowship, contingent upon the availability of Federal funds, will be in the form of a grant of up to $30,000 per year from Sea Grant; at least 50% of the Federal share is required as a match by the applicant (i.e., $15,000 match for $30,000 in Federal funds for a total project cost of $45,000). Awards will have an anticipated start date of June 1, 2004.

Statutory Authority: 33 U.S.C. 1127(a).

CFDA: 11.417, Sea Grant Support.

Application Deadline: Applications must be received by 5 p.m. (local time) on December 1, 2003, by a state Sea Grant Program [or by the National Sea Grant Office (NSGO) in the case of an institution of higher education in a non-Sea Grant state]. Applications are to be

forwarded to the NSGO by the state Sea Grant Programs by 5 p.m. (local time) on December 8, 2003.

Address for Submitting Applications: Applications from institutions of higher education in Sea Grant states must be submitted to the state Sea Grant Program. The addresses of the state Sea Grant College Programs may be found at the following Internet website: (*http://www.nsgo.seagrant.org/SGDirectors.html*) or may also be obtained by contacting Mr. Joseph Brown at the NSGO (mail address: National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; phone: 301–713–2438 x135; or e- mail: *joe.brown@noaa.gov*). Applications from elsewhere may be submitted either to the nearest state Sea Grant Program or directly to the NSGO. Applications submitted to the NSGO should be addressed to: National Sea Grant Office, R/SG, Attn: Mrs. Geraldine Taylor, Proposal Processing, Room 11732, NOAA, 1315 East-West Highway, Silver Spring, MD 20910 (telephone number for express mail applications is 301–713–2445).

Information Contact(s): Dr. Leon M. Cammen, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2435 ext. 136; e-mail: leon.cammen@noaa.gov; or any state Sea Grant Program.

Eligibility: Prospective Fellows must be enrolled or provisionally accepted in an MS or PhD degree program at an institution of higher education in the United States or its territories. Applications must be submitted by the institution of higher education.

Cost Sharing Requirements: Required 50 percent match of the Federal funds by the industrial partner.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

2. GradFell 2004 NMFS - Sea Grant Joint Graduate Fellowship Program in Population Dynamics and Marine Resource Economics.

Summary Description: The National Sea Grant College Program (Sea Grant) within OAR is seeking applications for one of its fellowship programs to fulfill its broad educational responsibilities and to strengthen the collaboration between Sea Grant and NMFS. Fellows will work on thesis problems of public interest and relevance to NMFS and have summer internships at participating NMFS Science Centers or Laboratories under the guidance of NMFS mentors.

Funding Availability: The NMFS - Sea Grant Joint Graduate Fellowship Program in Population Dynamics and Marine Resource Economics expects to support four new Fellows for 2–3 years beginning in FY 2004. The award for each fellowship will be a cooperative agreement of $38,000 per year, with an anticipated start date of June 1, 2004.

Statutory Authority: 33 U.S.C. 1127(a).

Catalog of Federal Domestic Assistance Number: 11.417, Sea Grant Support.

Application Deadline: Applications must be received by 5 p.m. (local time) on December 1, 2003 by a state Sea Grant Program [or by the National Sea Grant Office (NSGO) in the case of an institution of higher education in a non-Sea Grant state]. Applications are due at the NSGO from state Sea Grant Programs by 5 p.m. EST on December 8, 2003.

Address for Submitting Applications: Applications from institutions of higher education in Sea Grant states must be submitted to the state Sea Grant Program. The addresses of the state Sea Grant College Programs may be found at the following Internet website: (*http://www.nsgo.seagrant.org/SGDirectors.html*) or may also be obtained by contacting Mr. Joseph Brown at the NSGO [mail address: National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2438 ext. 135; or e- mail: joe.brown@noaa.gov]. Applications from elsewhere may be submitted either to the nearest state Sea Grant Program or directly to the NSGO. Applications submitted to the NSGO should be addressed to: National Sea Grant Office, R/SG, Attn: Mrs. Geraldine Taylor, Proposal Processing, Room 11732, NOAA, 1315 East-West Highway, Silver Spring, MD 20910 (telephone number for express mail applications is 301–713–2445).

Information Contact: Dr. Emory D. Anderson, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2435 ext. 144; e-mail: emory.anderson@noaa.gov; any state Sea Grant Program; or any participating NMFS facility.

Eligibility: Applicants must be United States citizens and must be enrolled or provisionally accepted in a PhD degree program in population dynamics or a related field (e.g., applied mathematics, statistics, or quantitative ecology) or in natural resource economics or a related field at an institution of higher education in the United States or its territories. Applications must be submitted by an institution of higher education.

Cost Sharing Requirements: Required 50 percent match of the NSGO funds by the academic institution (i.e.,$6,333).

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Limitation of Liability

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2004 appropriations. NOAA issues this notice subject to the appropriations made available under the current continuing resolution (CR), H.J. Res. 69, ''Making continuing appropriations for the fiscal year 2004, and for other purposes,'' Public Law 108–85. NOAA anticipates making awards for programs listed in this notice provided that funding for the programs is continued beyond October 31, 2003, the expiration of the current continuing resolution. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that, for programs that have deadline dates on or after October 1, 2003, they will be required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the June 27, 2003 (68 FR 38402) **Federal Register** notice for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the internet (*http://www.dunandbradstreet.com*).

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the

Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD–346 have been approved by Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: October 10, 2003.

John J. Kelly, Jr.,

Deputy Undersecretary of Commerce for Oceans and Atmosphere, National Oceanic and Atmospheric Administration.

[FR Doc. 03–26297 Filed 10–16–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research, NOAA, DOC.

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for research, education, and application of science to resource management. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Monday, November 3, 2003, from 8:30 a.m. to 5 p.m. and Tuesday, November 4, 2003 from 10 a.m. to 5 p.m. These times and the agenda topics described below may be subject to change. Refer to the web page listed below for the most up-to-date meeting agenda.

Place: The meeting will be held both days at the Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA.

Status: The meeting will be open to public participation with a 30-minute time period set aside on Monday, November 3 for direct verbal comments or questions from the public. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by October 22, 2003, to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after October 22, 2003, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Approximately thirty (30) seats will be available for the public including five (5) seats reserved for the media. Seats will be available on a first-come, first-served basis.

Matters to be Considered: The meeting will include the following topics: (1) NOAA Research Review, (2) Minority Serving Institutions, (3) NOAA Programming Planning and Budgeting, (4) Hydrology in NOAA, (5) Homeland Security, and (6) public statements.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Uhart, Executive Director, Science Advisory Board, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–9121, Fax: 301–713–0163, e-mail: *Michael.Uhart@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: October 10, 2003.

Louisa Koch,

Deputy Assistant Administrator, OAR.

[FR Doc. 03–26293 Filed 10–16–03; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100603D]

Marine Mammals; File No.753–1599

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Jim Darling, Ph.D., 2155 West 13th Avenue, Vancouver, B.C. VOR 2ZO, Canada, has requested an amendment to scientific research Permit No. 753–1599–00.

DATES: Written or telefaxed comments must be received on or before November 17, 2003.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249; and

Protected Species Coordinator, Pacific Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941. Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 753–1599–00, issued on January 10, 2001 (66 FR 1957–1958), is requested 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 (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 753–1599–00 authorizes the permit holder to conduct studies on the mating behavior, social organization and behavioral ecology of humpback whales (*Megaptera novaeangliae*) and gray whales (*Eschrichtius robustus*) in the state waters of Alaska, Hawaii, Oregon, Washington and California. The current permit expires on January 1, 2006.

The permit holder is now requesting additional takes for humpback whales only to further study the whales' songs in Hawaiian and Alaskan waters. Specifically, the permit holder is requesting the following additional annual takes: 100 humpback whales through the playback of recorded humpback whale songs, 50 humpback whales through suction cup and implantable tags designed to study the short-term movement patterns of the animals, and 300 humpback whales through harassment incidental to these research activities.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 8, 2003.

Jill K. Lewandowski,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–26296 Filed 10–16–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Post Allowance and Refiling

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 16, 2003.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703–308–7400, U.S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313, Attn: CPK 3 Suite 310; by e-mail at *susan.brown@uspto.gov*; or by facsimile at (703) 308–7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Robert J. Spar, Director, Office of Patent Legal Administration, USPTO, PO Box 1450, Alexandria, VA 22313–1450; by telephone at (703) 308–5107; or by e-mail at *bob.spar@uspto.gov*.

SUPPLEMENTARY INFORMATION

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. When an application for a patent is allowed by the USPTO, the USPTO issues a notice of allowance and the applicant must pay the specified issue fee (including the publication fee, if applicable) within three months to avoid abandonment of the application. If the appropriate fees are paid within the proper time period, the USPTO can then issue the patent. If the fees are not paid within the designated time period, the application is abandoned and the applicant may petition the Director to accept a delayed payment with a satisfactory showing that the delay was unavoidable. This Petition for Revival of an Application for Patent Abandoned Unavoidably (Form PTO/SB/61) is approved under information collection 0651–0031. The rules outlining the procedures for payment of the issue fee and issuance of a patent are found at 37 CFR 1.18 and 1.311–1.317.

Chapter 25 of Title 35 U.S.C. provides that there are several actions that the applicant may take after issuance of a patent, including requesting the correction of errors in a patent. For original patents that are deemed wholly or partly inoperative, applicants may file a reissue application, which entails several formal requirements including an oath or declaration that the errors in the patent were not the result of any deceptive intention on the part of the applicant. The rules outlining these procedures are found at 37 CFR 1.171–1.179 and 1.322–1.325.

Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art patents or printed publications. Once initiated, the reexamination proceedings are substantially ex parte and do not permit input from third parties, but Chapter 31 also provides for optional inter partes reexamination allowing third parties to participate. The rules outlining *ex parte* and *inter partes* reexaminations are found at 37 CFR 1.510–1.570 and 1.902–1.997.

If a request for *ex parte* or *inter partes* reexamination is denied, the requester may petition the Director to review the examiner's refusal of reexamination. The USPTO is adding these two petitions, the Petition to Review Refusal to Grant *Ex Parte* Reexamination (37 CFR 1.515(c)) and the Petition to Review Refusal to Grant *Inter Partes* Reexamination (37 CFR 1.927), to this information collection. These petitions are not new requirements but were not previously covered in this collection. No forms are provided for these petitions.

The public uses this information collection to request corrections of errors in issued patents, to request reissue patents, to request reexamination proceedings, and to ensure that associated fees and documentation are submitted to the USPTO. The USPTO provides 10 paper forms that the public may use to submit the necessary information for these requirements, although there are no forms provided for some of the documentation necessary for a reissue application.

This collection was previously approved by OMB in January 2001, at which time Form PTO/SB/58 Request for *Inter Partes* Reexamination was added to this collection to support the USPTO's amended rules of practice implementing third party reexamination proceedings as found in the American Inventors Protection Act of 1999. In May 2001, OMB approved a change worksheet to delete Form PTO/SB/54 Reissue Application by the Assignee, Offer to Surrender Patent from this collection due to the elimination of the requirement to file an offer to surrender the original patent at the time of filing a reissue application. The USPTO also revised Form PTOL–85B Issue Fee Transmittal in order to support a change in practice regarding publication fees and to accommodate the acceptance of payments by credit card. In November 2001, OMB approved another change worksheet that increased the total responses and burden hours as an administrative adjustment to reflect a

net increase in filings for the items covered under this collection.

The USPTO also recently submitted this collection in conjunction with a notice of proposed rulemaking entitled ''Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan'' (RIN 0651–AB64), which was published in the **Federal Register** on September 12, 2003 (Vol. 68, No. 177). The proposed rulemaking would eliminate the requirement in 37 CFR 1.178 for a ribbon copy of the patent grant to be surrendered in a reissue application and consequently delete Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent from this collection. The rulemaking would also allow applicants to use electronic signatures to sign patent and examination proceeding documents that have been created electronically with a word processor or obtained from the USPTO website as fillable forms. The information collection package for 0651–0033 associated with this proposed rulemaking is currently under review at OMB.

II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0033.

Form Number(s): PTO/SB/44/50/51/51S/52/53/56/57/58 and PTOL–85B.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 223,411 responses per year. This estimate includes the decrease of 95 responses per year that would result from the deletion of Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent, which is currently under review at OMB.

Estimated Time Per Response: The USPTO estimates that it will take the public from 1.8 minutes (0.03 hours) to 2 hours to gather the necessary information, prepare the appropriate form or other document, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 67,261 hours per year. This estimate includes the decrease of 5 hours per year that would result from the deletion of Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent, which is currently under review at OMB.

Estimated Total Annual Respondent Cost Burden: $8,380,572 per year. The USPTO expects that the information in this collection will be prepared by attorneys, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals. Using the professional rate of $252 per hour for associate attorneys in private firms, the USPTO estimates that the respondent cost burden for attorneys submitting the information in this collection will be $7,222,572 per year. Using the paraprofessional rate of $30 per hour, the USPTO expects that the respondent cost burden for submitting the Issue Fee Transmittal form will be $1,158,000 per year. These estimates exclude the respondent cost burden for Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent due to the pending deletion of this form in the 0651–0033 information collection submission that is currently under review at OMB.

Item	Form number	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Certificate of Correction	PTO/SB/44	1 hour	25,000	25,000
Reissue Documentation	None	2 hours	870	1,740
Reissue Patent Application Transmittal	PTO/SB/50	12 minutes	870	174
Reissue Application Declaration by the Inventor or the Assignee	PTO/SB/51/52	30 minutes	870	435
Supplemental Declaration for Reissue Patent Application to Correct ''Errors'' Statement (37 CFR 1.175).	PTO/SB/51S	1.8 minutes	550	17
Reissue Application: Consent of Assignee; Statement of Non-assignment.	PTO/SB/53	6 minutes	850	85
Reissue Application Fee Transmittal Form	PTO/SB/56	12 minutes	870	174
Request for Ex Parte Reexamination Transmittal Form	PTO/SB/57	2 hours	330	660
Request for Inter Partes Reexamination Transmittal Form	PTO/SB/58	2 hours	175	350
Petition to Review Refusal to Grant Ex Parte Reexamination	None	1 hour	25	25
Petition to Review Refusal to Grant Inter Partes Reexamination	None	1 hour	1	1
Issue Fee Transmittal	PTOL–85B	12 minutes	193,000	38,600
Total			223,411	67,261

Estimated Total Annual Non-hour Respondent Cost Burden: $257,516,601 per year. There are no capital start-up costs, maintenance costs, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

The total estimated annual filing fees for this collection are calculated in the accompanying chart. The fees listed correspond to the USPTO Fee Schedule effective October 1, 2003. The Reissue Fee Transmittal Form includes the filing fees for the reissue application (including small entities) and covers all parts of the application, including reissue documentation, reissue application transmittal, reissue application declarations, and consent of assignee or statement of non-assignment. There is no fee for the supplemental declaration for a reissue patent application to correct an ''errors'' statement.

Additionally, there are several different issue fees under 37 CFR 1.18 depending on the type of patent being issued, whether a publication fee is required, and whether the inventor is entitled to the discounted small entity fee. The additional publication fee may not be owed at the time of patent issue for any of the following reasons: (1) The application requested non-publication under 35 U.S.C. 122(b)(2)(B)(i); (2) the application will not be published due to national security concerns as provided in 35 U.S.C. 122(d); (3) the applicant has paid the publication fee prior to issue due to a request for early or amended publication under 37 CFR 1.219; or (4) the application was filed prior to November 29, 2000 and therefore not

subject to eighteen-month publication under 35 U.S.C. 122(b). The USPTO estimates that the total filing costs associated with this collection will be $257,407,130 per year.

Item	Form No.	Estimated annual responses	Fee amount	Estimated annual filing costs
Certificate of Correction	PTO/SB/44	25,000	$100.00	$2,500,000.00
Reissue Documentation	None	870	0.00	0.00
Reissue Patent Application Transmittal	PTO/SB/50	870	0.00	0.00
Reissue Application Declaration by the Inventor or the Assignee	PTO/SB/51/52	870	0.00	0.00
Supplemental Declaration for Reissue Patent Application to Correct ''Errors'' Statement (37 CFR 1.175).	PTO/SB/51S	550	0.00	0.00
Reissue Application: Consent of Assignee; Statement of Non-assignment.	PTO/SB/53	850	0.00	0.00
Reissue Application Fee Transmittal Form	PTO/SB/56	520	770.00	400,400.00
Reissue Application Fee Transmittal Form (small entity)	PTO/SB/56	350	385.00	134,750.00
Request for Ex Parte Reexamination Transmittal Form	PTO/SB/57	330	2,520.00	831,600.00
Request for Inter Partes Reexamination Transmittal Form	PTO/SB/58	175	8,800.00	1,540,000.00
Petition to Review Refusal to Grant Ex Parte Reexamination	None	25	130.00	3,250.00
Petition to Review Refusal to Grant Inter Partes Reexamination	None	1	130.00	130.00
Issue Fee (utility patent, no publication fee)	PTOL–85B	25,000	1,330.00	33,250,000.00
Issue Fee (utility patent, no publication fee, small entity)	PTOL–85B	9,000	665.00	5,985,000.00
Issue Fee (utility patent, with publication fee)	PTOL–85B	105,000	1,630.00	171,150,000.00
Issue Fee (utility patent, with publication fee, small entity)	PTOL–85B	36,000	965.00	34,740,000.00
Issue Fee (design patent, no publication fee)	PTOL–85B	8,500	480.00	4,080,000.00
Issue Fee (design patent, no publication fee, small entity)	PTOL–85B	8,500	240.00	2,040,000.00
Issue Fee (plant patent, no publication fee)	PTOL–85B	120	640.00	76,800.00
Issue Fee (plant patent, no publication fee, small entity)	PTOL–85B	80	320.00	25,600.00
Issue Fee (plant patent, with publication fee)	PTOL–85B	480	940.00	451,200.00
Issue Fee (plant patent, with publication fee, small entity)	PTOL–85B	320	620.00	198,400.00
Total		223,411		$257,407,130.00

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 49 cents and that up to 223,411 submissions will be mailed to the USPTO per year. The total estimated postage cost for this collection is $109,471 per year.

These estimated annual (non-hour) costs exclude the costs for Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent due to the pending deletion of this form in the 0651–0033 information collection submission that is currently under review at OMB. The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is $257,516,601 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 10, 2003.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 03–26275 Filed 10–16–03; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the 2003 Science and Technology Review. The purpose of the meeting is to allow the SAB and study leadership to assess the quality and long-term relevance of Air Vehicle research. Because classified and contractor-proprietary information will be discussed, this meeting will be closed to the public.

DATES: November 3–7, 2003.

ADDRESSES: Wright-Patterson Air Force Base, Ohio.

FOR FURTHER INFORMATION CONTACT: Major Dwight Pavek, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–26291 Filed 10–16–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The CNO Executive Panel reported the recommendations of the South Asia Study Group to the Chief of Naval Operations. This meeting consisted of discussions relating to

South Asia security issues as context for potential expansion of U.S. security cooperation with nations of the region.

DATES: The meeting was held on Tuesday, October 7, 2003, from 7 a.m. to 8 a.m.

ADDRESSES: The meeting was held at the Chief of Naval Operations dining room, Room 4E641, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Commander David Hughes, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, (703) 681–4908 or Commander Jonathan Huggins, CNO Executive Panel, (703) 681–6207.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constituted classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy determined in writing that the public interest required that the meeting be closed to the public because it was concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Due to an unavoidable delay in administrative processing, the 15 days advance notice could not be provided.

Dated: October 10, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–26271 Filed 10–16–03; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, U.S. Naval War College (NWC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The BOA to the President, U.S. NWC, will meet to discuss educational, doctrinal, and research policies and programs at the NWC. This meeting will be open to the public.

DATES: The meeting will be held on Friday, November 21, 2003, from 8 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in Conolly Hall, U.S. NWC, 686 Cushing Road, Newport, RI.

FOR FURTHER INFORMATION CONTACT: Mr. Richard R. Menard, Office of the Provost, U.S. NWC, 686 Cushing Road, Newport, RI 02841–1207, telephone number (401) 841–3589.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of the Board of Advisors meeting is to elicit advice on educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College since the last meeting of the BOA on March 20–21, 2003.

Dated: October 3, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–26290 Filed 10–16–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 17, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 10, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Safe and Drug Free Schools

Type of Review: Revision.

Title: Grants to States for Training Incarcerated Youth Offenders—Eligible Population Data Request Form.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 2,275.

Abstract: To receive an award under the Youth Offenders Program, a State Correctional Education Agency (SCEA) must submit a state plan describing how the program will operate. States must also submit an annual evaluation report. The date requested from the state on the eligible population request form is necessary to run the allocation formula.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2360. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–26259 Filed 10–16–03; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6644–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed October 06, 2003 Through October 10, 2003

Pursuant to 40 CFR 1506.9.

EIS No. 030460, Final EIS, AFS, MT, Windmill Timber Sale and Road Decommissioning Project, Timber Harvesting, Road Construction and Road Decommissioning, Mill Creek Drainage, Absaroka Mountain Range, Gallatin National Forest, Park County, MT, Due: November 17, 2003, Contact: Mike Dettori (406) 222–1892.

This document is available on the Internet at: *http://www.fs.fed.us/rl/gallatin.*

EIS No. 030461, Final EIS, FHW, WY, US 287/26 Improvements Project, Moran Junction to 12 miles west of Dubois to where the roadway traverses thru the Bridger-Teton and Shoshone National Forests and Grand Teton National Park, NPDES and US Army COE Section 404 Permits Issuance, Teton and Fremont Counties, WY, Due: December 19, 2003, Contact: Galen W. Hesterberg (307) 772–2012.

EIS No. 030462, Draft EIS, AFS, AZ, Rodeo-Chediski Fire Salvage Project, Timber Harvest of Merchantable Dead Trees as Sawtimber and Products other than Lumber (POL), Implementation, Apache-Sitgreaves and Tonto National Forest, Apache, Coconino and Navajo Counties, AZ, Due: December 1, 2003, Contact: Jimmy E. Hibbetts (928) 333–4301.

EIS No. 030463, Draft EIS, FHW, NY, Cumberland Head Connector Road Construction, County Road 57 between US 9 and the Peninsula (known as the Parkway), Funding, Town of Plattsburg, Clinton County, NY, Due: December 1, 2003, Contact: Robert Arnold (518) 431–4127.

EIS No. 030464, Draft EIS, AFS, MT, Helena National Forest Noxious Weed Treatment Project, Implementation, Lewis and Clark, Powell, Jefferson, Broadwater and Meagher Counties, MT, Due: December 1, 2003, Contact: Dea Nelson (406) 266–3405.

EIS No. 030465, Final EIS, COE, CA, East Cliff Drive Bluff Protection and Parkway Project, Alternatives Evaluation for Coastal Bluff Erosion Protection, City of Santa Cruz, Santa Cruz County, CA, Due: November 17, 2003, Contact: Yvonne LeTellier (415) 977–8466.

EIS No. 030466, Draft EIS, BLM, OR, Upper Deschutes Resource Management Plan, Implementation, Deschutes, Klamath, Jefferson and Cook Counties, OR, Due: January 15, 2004, Contact: Mollie Chaudet (541) 416–6700.

EIS No. 030467, Draft EIS, AFS, OR, Monument Fire Recovery Project, Whitman Unit—Wallowa—Whitman National Forest (WWNF) Timber Harvest of Fire Killed/Dying Trees, Reforestation, Recovery of Herbaceous, Native Vegetation and Maintenance or Improvement of Water Quality, Implementation, Baker County, OR, Due: December 1, 2003, Contact: Roger LeMaster (541) 523–4476.

EIS No. 030468, Draft Supplement, AGS, OR, Lemolo Watershed Projects, Updated and New Information concerning Recommendations Steamed from the Diamond Lake/Lemolo Lake Watershed Analysis (WA), Implementation, Umpqua National Forest, Diamond Lake Ranger District, Douglas County, OR, Due: December 1, 2003, Contact: Steve Buskie (541) 498–2531.

EIS No. 030469, Final Supplement, FHW, WA, Elliott Bridge No. 3166 Replacement, Updated and Reevaluated Information concerning Replacement of the 149th Avenue SE Crossing over the Cedar River, Funding, US CGD Bridge Permit and US Army COE Section 404 Permit Issuance, City of Renton, King County, WA, Due: November 17, 2003, Contact: James A. Leonard (360) 753–9408.

EIS No. 030470, Draft EIS, FHW, TX, Grand Parkway/TX–99 Segment F–1 Highway Construction, US 290 to TX–249, Funding and US Army COE Section 404 Permit Issuance, Harris, Montgomery, Fort Bend, Liberty, Brazoria, Galveston and Chambers Counties, TX, Due: January 16, 2004, Contact: John R. Mack (512) 536–5960.

EIS No. 030471, Draft EIS, FHW, WI, WI–83 Highway Improvements, County NN in Mukwonago to WI–16 in Hartland, Funding and US Army COE Section 404 Permit Issuance, Waukesha County, WI, Due: December 4, 2003, Contact: David Platz (608) 829–7509.

EIS No. 030472, Draft EIS, COE, AL, Choctaw Point Terminal Project, Construction and Operation of a Container Handling Facility, Department of the Army (DA) Permit Issuance, Mobile County, AL, Due: January 5, 2004, Contact: Dr. Susan I. Rees (251) 694–4141.

EIS No. 030473, Final EIS, FHW, WA, I–5 Toutle Park Road to Maytown Transportation Improvements, Funding, US Army COE Section 404 Permit, US Coast Guard Permit and NPDES Permit Issuance, Cowlitz, Lewis and Thurston Counties, WA, Due: November 24, 2003, Contact: Michael Kulbacki (360) 753–9413.

EIS No. 030474, Draft EIS, NOA, HI, GU, AS, Bottomfish and Seamount Groundfish Fisheries Conservation and Management Plan, Implementation, US Economic Zone (EEZ) around the State of Hawaii, Territories of Samoa and Guam, Commonwealth of the Northern Mariana and various Islands and Atolls known as the US Pacific remove island areas, HI, GU and AS, Due: December 1, 2003, Contact: Kitty M. Simonds (808) 522–8220.

EIS No. 030475, Draft EIS, BLM, CO, Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Resource Management Plan, Implementation, Mesa County, CO, Due: January 31, 2004, Contact: Jane Ross (970) 244–3007.

EIS No. 030476, Draft EIS, COE, AL, Arlington and Garrows Bend Channels and Adjacent Area restoration, Maintenance Dredging, City of Mobile, Mobile County, AL, Due: January 5, 2004, Contact: Dr. Susan Ivester Rees (215) 694–4141.

Amended Notices

EIS No. 030389, Draft EIS, FHW, NC, Greensboro-High Point Road (NC –1486–NC–4121) Improvements from US 311 (I–74) to Hilltop Road (NC–1404), Cities of Greensboro and High Point, the Town of Jamestown, Guilford County, NC, Due: November 7, 2003, Contact: John F. Sullivan (919) 856–4346.

Revision of FR Notice Published on 8/28/03: CEQ Comment Period Ending 10/14/2003 has been Extended to 11/7/2003.

EIS No. 030401, Draft EIS, FRC, OR, Pelton Round Butte Hydroelectric Project, (FERC No. 2030–0306), Application for a New License for Existing 366.82-megawatt Project,

Deschutes River, OR, Due: December 31, 2003, Contact: Nicholas JayJack (202) 502–6073.

Revision of FR Notice Published on 9/5/2003: CEQ Comment Period Ending on 10/20/2003 has been Extended to 12/31/2003.

Dated: October 14, 2003.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 03–26325 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7575–7]

Notice of Administrative Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with sections 122(a)(1) and 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9604(a)(1) and 9622(h)(1), notice is hereby given of a proposed administrative settlement agreement concerning the Coeburn Town Dump Site, Coeburn, Wise County, Virginia (Proposed Settlement). The Proposed Settlement with the Town of Coeburn (Settling Party) has been approved by the Attorney General, or his designee, of the United States Department of Justice. The Proposed Settlement was signed by the Regional Administrator of the U.S. Environmental Protection Agency (EPA), Region III, on June 26, 2003, pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622, and is subject to review by the public pursuant to this notice.

The Proposed Settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607, against the Settling Party and requires the Settling Party to implement post removal site controls at the site in exchange for a limited covenant for past response costs.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Proposed Settlement. EPA will consider all comments received and may withdraw or withhold consent to the Proposed Settlement if such comments disclose facts or considerations which indicate the Proposed Settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before November 17, 2003.

ADDRESSES: The proposed settlement agreement is available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed settlement agreement may be obtained from, Regional Docket Clerk (3RC00), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103; telephone number (215) 814–2489. Comments should reference the ''Coeburn Town Dump Site'' and ''EPA Docket No. 01–66–DC'' and should be forwarded to Lydia Guy at the above address.

FOR FURTHER INFORMATION CONTACT: Ami Y. Antoine (3RC43), Sr. Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2497.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 03–26324 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7575–5]

Notice of Intent To Assess Administrative Penalty and Opportunity for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region IX, is hereby giving notice that it has issued an Administrative Complaint to Sofia's Mexican Food, Inc. and notice of its intent to assess Class I administrative penalties in an amount not to exceed twenty-seven thousand five-hundred dollars ($27,500) under section 309(g) of the Clean Water Act, 33 U.S.C. part 1319(g). This Complaint was issued to Sofia's Mexican Foods, Inc. for failure to comply with the self-monitoring reporting requirements required under 40 CFR 403.12(h), and required under its Industrial Wastewater Discharge Permit issued by the Sanitation Districts of Los Angeles County.

DATES: Comments must be submitted on or before November 17, 2003.

ADDRESSES: Submit comments to: Danielle Carr, Regional Hearing Clerk, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Documents from the administrative record file may be obtained by writing Ms. Carr at the above address.

FOR FURTHER INFORMATION CONTACT: Interested parties may contact the following EPA representative to learn more about this action. Richard Campbell, U.S. Environmental Protection Agency Region IX, 75 Montgomery Street, San Francisco, CA 94105–3901, (415) 972–3870.

SUPPLEMENTARY INFORMATION: The following further identifies the case and should be included in any written comments submitted:

Name of Case: In the Matter of Sofia's Mexican Food, Inc., 1100 East Holt Avenue, Pomona, CA 91767.

Docket Number: CWA–9–2003–0004.

Date Filed: September 25, 2003.

Section 309(g) of the Act, 33 U.S.C. 1319(g), requires that interested persons be given notice of the proposed penalty and a reasonable opportunity to comment. Procedures by which the public may submit written comments or participate in the proceedings are described in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 CFR part 22. The deadline for submission of written public comments is thirty (30) days after issuance of this public notice. Comments should be made to Danielle Carr at the address typed above.

If Respondent requests a hearing within thirty (30) days of receiving the Administrative Complaint, those submitting written comments in response to this Notice will be advised of the time and date of the hearing and may appear to present evidence on the appropriateness of the proposed penalty. The final administrative penalty order will be issued at the close of the thirty-day comment period unless a public hearing is requested.

Dated: October 7, 2003.

Alexis Strauss,

Director, Water Division, Region IX.

[FR Doc. 03–26322 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7575–6]

Clean Water Act Section 303(d): Final Agency Action on 5 Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on 5 TMDLs prepared by EPA Region 6 for waters listed in the state of Arkansas, under section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to the lawsuit styled *Sierra Club, et al.* v. *Clifford, et al.*, No. LR–C–99–114. Documents from the administrative record files for the final 5 TMDLs, including TMDL calculations and responses to comments, may be viewed at *http://www.epa.gov/earth1r6/6wq/artmdl.htm.*

ADDRESSES: The administrative record files for these 5 TMDLs may be obtained by writing or calling Ms. Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1999, five Arkansas environmental groups, the Sierra Club, Federation of Fly Fishers, Crooked Creek Coalition, Arkansas Fly Fishers, and Save our Streams (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Browner et al.*, No. LR–C–99–114. Among other claims, plaintiffs alleged that EPA failed to establish Arkansas TMDLs in a timely manner.

EPA Takes Final Agency Action on 5 TMDLs

By this notice EPA is taking final agency action on the following 5 TMDLs for waters located within the state of Arkansas:

Segment-Reach	Waterbody name	Pollutant
08040201–706–16.	Flat Creek ...	Chloride.
08040201–706–16.	Flat Creek ...	Sulfate.
08040201–706–16.	Flat Creek ...	TDS.
08040201–806–8	Salt Creek ...	Chloride.
08040201–806–8	Salt Creek ...	TDS.

EPA requested the public to provide EPA with any significant data or information that may impact the 5 TMDLs at 68 FR 45819 (August 4, 2003). The comments received and EPA's response to comments may be found at *http://www.epa.gov/earth1r6/6wq/artmdl.htm.*

Dated: October 8, 2003.

Jane B. Watson,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 03–26323 Filed 10–16–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Thursday, October 16, 2003

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 16, 2003, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW, Washington, DC.

Item No.	Bureau	Subject
1	Wireless Tele-Communications	*Title:* Allocations and Service Rules for the 71–76 GHz, 81–86 GHz and 92–95 GHz Bands (WT Docket No. 02–146); and Loea Communications Corporation Petition for Rulemaking (RM–10288). *Summary:* The Commission will consider a Report and Order concerning the allocation, band plan and service rules in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands.
2	Wireline Competition	*Title:* Federal-State Joint Board on Universal Service (CC Docket No. 96–45). *Summary:* The Commission will consider an Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order concerning the universal service support mechanism for non-rural carriers. The item responds to the decision of the United States Court of Appeals for the Tenth Circuit remanding the Ninth Report and Order and the recommendations of the Federal-State Joint Board on Universal Service.
3	Wireless Tele-Communications and International	*Title:* Auction of Direct Broadcast Satellite Licenses (AUC–03–52). *Summary:* The Commission will consider an Order to resolve issues raised in the Auction No. 52 Comment Public Notice related to the Commission's authority to auction Direct Broadcast Satellite (''DBS'') licenses and eligibility for the U.S. DBS licenses currently available.
4	Media	*Title:* DTV Build-out; Requests for Extension of the Digital Television Construction Deadline; and Commercial Television Stations with May 1, 2002, Deadline. *Summary:* The Commission will consider an Order concerning applications submitted by commercial television stations seeking extensions of the May 1, 2002, deadline for construction of their digital television facilities.

Item No.	Bureau	Subject
5	Wireless Tele-Communications	*Title:* Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands (WT Docket No. 02–353). *Summary:* The Commission will consider a Report and Order concerning licensing, technical and competitive bidding rules for spectrum at 1710–1755 MHz and 2110–2155 MHz allocated for advanced wireless services (AWS).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Audio/Video coverage of the meeting will be broadcast live over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.* Audio and video tapes of this meeting can be purchased from CACI Productions, 341 Victory Drive, Herndon, VA 20170, (03) 834–1470, Ext. 19; Fax (703) 834–0111.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@aol.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–26418 Filed 10–15–03; 2:18 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 03–11]

Deans Overseas Shippers, Inc., and Sharon Stephenson Deans—Possible Violations of Sections 8(a), 10(a)(1) and 19 of the Shipping Act of 1984, as Amended, and the Commission's Regulations at 46 CFR Parts 515 and 520; Deans International Shipping Co., Ltd.—Application for License as an Ocean Transportation Intermediary; Order of Investigation and Hearing

Notice is given that on October 8, 2003, the Federal Maritime Commission served an Order of Investigation and Hearing on Deans Overseas Shippers, Inc. (''Deans Overseas''), Sharon Stephenson Deans (''Ms. Deans''), and Deans International Shipping Co., Ltd. (''Deans International''). Deans Overseas, incorporated in New York, is doing business as a household goods mover in the United States export trades, primarily to Caribbean destinations. Ms. Deans is the chief executive officer and owns 100% of Deans Overseas' capital stock. Deans Overseas operated as a non-vessel-operating common carrier (''NVOCC'') prior to revocation of its tariff effective September 1996, when its bond was not renewed. Deans International was incorporated in New York on June 28, 2002. Ms. Deans serves as chief executive officer of Deans International and owns 100% of the company's stock. Ms. Deans has filed an application with the Commission seeking a freight forwarder license on behalf of Deans International.

It appears that, from at least October 2000 to the present, Deans Overseas and its principal, Ms. Deans, provided NVOCC services from the United States to destinations in the Caribbean without first obtaining an ocean transportation intermediary (''OTI'') license, a bond or other surety, and publishing a tariff open for public inspection. It also appears that Deans Overseas, through Ms. Deans, misrepresented itself as the actual cargo owner in order to enter into service contracts with ocean common carriers and to receive transportation for property at rates more favorable than those published in the carriers' tariffs.

This proceeding therefore seeks to determine: (1) Whether Deans Overseas Shippers, Inc., and or Sharon Stephenson Deans violated sections 8(a) and 19 of the Shipping Act of 1984 (''1984 Act'') and the Commission's regulations at 46 CFR parts 515 and 520 by knowingly and willfully performing NVOCC services without having obtained an OTI license from the Commission, without having filed a bond or other financial responsibility, and without having published a tariff; (2) whether Deans Overseas Shippers, Inc., and/or Sharon Stephenson Deans violated section 10(a)(1) of the 1984 Act by knowingly and willfully obtaining transportation for property at less than the rates or charges that otherwise would be applicable by the unjust or unfair device or means of unlawfully entering into service contracts; (3) whether the application of Deans International Shipping Co., Ltd., for an OTI license to operate as a freight forwarder should be granted or denied; (4) whether, in the event violations of sections 8(a), 10(a)(1) and 19 of the 1984 Act or the Commission's regulations at 46 CFR parts 515 and 520 are found, civil penalties should be assessed and, if so, the amount; and (5) whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's Home Page at *http//www.fmc.gov* or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

Dated: October 10, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–26236 Filed 10–16–03; 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: 14941N.

Name: Air Freight Consolidators International, Inc. dba ACI Line.

Address: 1251 E. Dyer Road, Suite 200, Santa Ana, CA 92705.

Date Revoked: August 14, 2003.

Reason: Surrendered license voluntarily.

License Number: 3235F.

Name: All Points Freight Forwarding Inc.

Address: 28 Taylor's Bills Road, Manalapan, NJ 07726.

Date Revoked: September 20, 2003.

Reason: Failed to maintain a valid bond.

License Number: 17893F.
Name: All World Logistics, Inc. dba Internet Shipping Line.
Address: 969 Newark Turnpike, Kearny, NJ 07032.
Date Revoked: September 18, 2003.
Reason: Failed to maintain a valid bond.

License Number: 18051N.
Name: Dominicana Air & Ocean Freight Corp.
Address: 1332 NW. 36th Street, Miami, FL 33142.
Date Revoked: September 25, 2003.
Reason: Failed to maintain a valid bond.

License Number: 17255NF.
Name: Fagioli PSC USA, Inc.
Address: 3050 Post Oak Blvd., Suite 205, Houston, TX 77056–6570.
Date Revoked: August 20, 2003.
Reason: Failed to maintain valid bonds.

License Number: 15628N.
Name: Freight Brokers International, Inc.
Address: 207 Meadow Road, Edison, NJ 08817.
Date Revoked: September 23, 2003.
Reason: Surrendered license voluntarily.

License Number: 16950NF.
Name: Global Cargo Corporation.
Address: 8470 NW. 30th Terrace, Miami, FL 33122.
Date Revoked: September 25, 2003.
Reason: Failed to maintain valid bonds.

License Number: 16414N and 16414F.
Name: Global Logistics Services, Inc. dba Global Sea.
Address: 5350 South Kirkwood Ave., Cudahy, WI 53110.
Date Revoked: August 16, 2003 and August 22, 2003.
Reason: Failed to maintain valid bonds.

License Number: 17537NF.
Name: Green Freight LLC dba Greenfreight.
Address: 1107 First Ave., Suite 1101, Seattle, WA 98101.
Date Revoked: August 30, 2003.
Reason: Failed to maintain valid bonds.

License Number: 15742F.
Name: JB Han Company, Inc. dba Joinus Freight System.
Address: 550 E. Carson Plaza Drive, Suite 217, Carson, CA 90746.
Date Revoked: September 5, 2003.
Reason: Failed to maintain a valid bond.

License Number: 17412N.
Name: PDS Express, Inc.
Address: 473 Broadway, Suite 215, Bayonne, NJ 07002.
Date Revoked: September 28, 2003.
Reason: Failed to maintain a valid bond.

License Number: 14874N.
Name: PRO Freight Ocean Cargo, Inc.
Address: 15343 NW. 33rd Place, Opalocka, FL 33054.
Date Revoked: September 21, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4135F.
Name: Transworld Export Services, Inc.
Address: 910 Bergen Aven., Suite 204–B, Jersey City, NJ 07306.
Date Revoked: September 20, 2003.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–26238 Filed 10–16–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date Reissued
1530F	Colombo Services, Inc., 4000–A Airline Drive, Houston, TX 77022	May 7, 2003.
17507N	ECO Freight International Corporation, 5422 W. Rosecrans Avenue, Hawthorne, CA 90250	August 21, 2003.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–26239 Filed 10–16–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Global Alliance Logistics (MIA) Inc., 10461 NW. 36 Street, Miami, FL 33178, Officers: Tahiry Tijerino, President (Qualifying Individual), Joseph Ng, Chief Finance Officer.

Marine Research & Planning, Inc., 260 California Street, San Francisco, CA 94111–4323, Officer: Torben F. Henry, Director (Qualifying Individual).

Global Freight Systems, Inc., 5523 NW. 72nd Avenue, Miami, FL 33166, Officer: Mario Gutierrez, Jr., President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Skycel, Inc. dba Econcargo, 8211 NW. 68 Street, Miami, FL 33166, Officer: Veronica Caraballo, Vice President (Qualifying Individual), Syed Abdul Cader, Member.

Freight Cargo Logistics, LLC, 38 Genesee Drive, Commack, NY 11725, Officer: Steven Soricillo, President (Qualifying Individual).

Global Parcel System LLC, 8248 NW. 30 Terrace, Miami, FL 33122, Officer: Alejandro J. Alvarez, President (Qualifying Individual), David Phillips, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Access Freight Forwarders, LLC, 184 East Bay Street, Suite 202, Charleston, SC 29401, Officers: David Holst, Jr., President (Qualifying Individual), John H. Chapman, Treasurer.

Gruen International, Inc., 6310 N. Port Washington Road, Milwaukee, WI 53217, Officers: Michael J. Karman, Asst. Vice President (Qualifying Individual), Steven Gruen, President.

Dated: October 10, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–26237 Filed 10–16–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 10, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Northern States Financial Corporation, Waukegan, Illinois; to merge with Round Lake Bankcorp, Inc., Round Lake, Illinois, and thereby indirectly acquire First State Bank of Round Lake, Round Lake Beach, Illinois.

Board of Governors of the Federal Reserve System, October 10, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–26233 Filed 10–16–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:15 a.m., Wednesday, October 15, 2003. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 14, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–26355 Filed 10–15–03; 8:49 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics; Meeting

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, announces the following meeting.

Name: ICD–9–CM Coordination and Maintenance Committee meeting.

Time and Date: 9 a.m.–4 p.m., December 4–5, 2003.

Place: Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

Status: Open to the public.

Purpose: The ICD–9–CM Coordination and Maintenance (C&M) Committee will hold its final meeting of the 2003 calendar year cycle on Thursday and Friday December 4–5, 2003. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, Clinical Modification.

Matters To Be Discussed: Agenda items include:

ICD–10–CM update
West Nile virus with and without encephalitis
Alpha-1 antitrypsin deficiency and other metabolic conditions
Long-term (current) use of aspirin
Multiple sclerosis
Sleep disorders
Genital prolapse
Bethesda system
Chondritis of ear
Worn out joint prosthesis
Awaiting heart transplant status
Dental expansions
Decubitus ulcers
Automatic implantable cardioverter/defibrillator (AICD) check
Spinal procedures—nucleus replacement device
Laparoscopic/Thorascopic approaches
Insertion/replacement of neurostimulator components
Axial flow left ventricular assist device
Prevention of vein graft failure
Intravascular ultrasound (IVUS)
ICD–10—Procedure classification system (ICD–10–PCS) update
Addenda

For Further Information Contact: Amy Blum, Medical Classification Specialist, Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, rm. 2402, Hyattsville, Maryland 20782, telephone 301/458–4106 (diagnosis), Amy Gruber, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Blvd., Room C4–07–07, Baltimore, Maryland 21244 telephone (410) 786–1542 (procedures).

Notice: In the interest of security, (CMS) has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo

I.D. and sign-in at the security desk upon entering the building.

Because of increased security requirements, those who wish to attend a specific ICD–9–CM C&M meeting in the CMS auditorium must submit their name and organization for addition to the meeting visitor list. Those wishing to attend the December 4–5, 2003 meeting must submit their name and organization by November 28, 2003 for inclusion on the visitor list.

This visitor list will be maintained at the front desk of the CMS building and used by the guards to admit visitors to the meeting. Those who attended previous ICD–9–CM C&M meetings will no longer be automatically added to the visitor list. You must request inclusion of your name prior to each meeting you attend.

Send your name and organization to one of the following by November 28, 2003 in order to attend the December 4–5, 2003 meeting: Pat Brooks *pbrooks1@cms.hhs.gov* (410) 786–5318. Ann Fagan *afagan@cms.hhs.gov* (410) 786–5662. Amy Gruber *agruber@cms.hhs.gov* (410) 786–1542.

Notice: This is a public meeting. However, because of fire code requirements, should the number of attendants meet the capacity of the room, the meeting will be closed.

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 CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 10, 2003.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–26272 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

President's Committee for People With Intellectual Disabilities (PCPID); Notice of Meeting

AGENCY: President's Committee for People with Intellectual Disabilities (PCPID); Department of Health and Human Services.

ACTION: Corrected notice of meeting.

SUMMARY: This document clarifies and corrects the notice that was published in the **Federal Register** on October 9, 2003 (68 FR 58352). It corrects a statement that a portion of the meeting would be closed to the public. The full Committee meeting of the President's Committee for People with Intellectual Disabilities will be open to the public pursuant to section 10(a)(1) of the Federal Advisory Committee Act (5 U.S.C. App. 2). Subcommittees of the Committee will have breakout working sessions from 1:30 p.m. to 4 p.m. for the purpose of preliminary discussions on issues of the PCPID. This notice is filed less than 15 calendar days prior to the meeting date due to scheduling conflicts.

FOR FURTHER INFORMATION CONTACT: Sally Atwater, Executive Director, President's Committee for People with Intellectual Disabilities. Aerospace Center Building, Suite 701, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone (202) 619–0634, Fax (202) 205–9519, E-mail: *satwater@acf.hhs.gov.*

Dated: October 9, 2003.

Sally Atwater,

Executive Director, President's Committee for People with Intellectual Disabilities.

[FR Doc. 03–26277 Filed 10–16–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0463]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection regarding the manufacture of infant formula, including infant formula labeling, quality control procedures, notification requirements, and recordkeeping.

DATES: Submit written or electronic comments on the collection of information by December 16, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Requirements—21 CFR Parts 106 and 107 (OMB Control Number 0910–0256)—Extension

Statutory requirements for infant formula under the Federal Food, Drug, and Cosmetic Act (the act) are intended to protect the health of infants and include a number of reporting and recordkeeping requirements. Among other things, section 412 of the act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and adhere to quality control procedures, notify FDA

when a batch of infant formula that has left the manufacturers' control may be adulterated or misbranded, and keep records of distribution. FDA has issued regulations to implement the act's requirements for infant formula in 21 CFR part 106 and part 107 (21 CFR part 107). FDA also regulates the labeling of infant formula under the authority of section 403 of the act (21 U.S.C. 343). Under the labeling regulations for infant formula in part 107, the label of an infant formula must include nutrient information and directions for use. The purpose of these labeling requirements is to ensure that consumers have the information they need to prepare and use infant formula appropriately. In a notice of proposed rulemaking published in the **Federal Register** of July 9, 1996 (61 FR 36154), FDA proposed changes in the infant formula regulations, including some of those listed in tables 1 and 2 of this document. The document included revised burden estimates for the proposed changes and solicited public comment. In the interim, however, FDA is seeking an extension of OMB approval for the current regulations so that it can continue to collect information while the proposal is pending.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Federal Food, Drug, and Cosmetic Act or 21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses[2]	Hours per Response	Total Hours
Section 412(d) of the act	4	13	52	10	520
106.120(b)	4	0.25	1	4	4
107.10(a) and 107.20	4	13	52	8	416
107.50(b)(3) and (b)(4)	3	2	6	4	24
107.50(e)(2)	3	0.33	1	4	4
Total					968

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Manufacturers may submit infant formula notifications in electronic format.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
106.100	4	10	40	4,000	160,000
107.50(c)(3)	3	10	30	3,000	90,000
Total					250,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In compiling these estimates, FDA consulted its records of the number of infant formula submissions received in the past. The figures for hours per response are based on estimates from experienced persons in the agency and in industry.

Dated: October 9, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26284 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003F–0471]

T&R Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that T&R Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glycerol ester of gum rosin to adjust the density of citrus oils used in the preparation of beverages.

FOR FURTHER INFORMATION CONTACT: Clarence W. Murray, III, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3601.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5) (21 U.S.C. 348(b)(5))) notice is given that a food additive petition (FAP 3A4749) has been filed by T&R Chemicals, Inc., c/o The Environ Health Sciences Institute, 4350 N. Fairfax Dr., suite 300, Arlington, VA 22203. The petition proposes to amend the food additive regulations in Part 172 *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172) to provide for the safe use of glycerol ester of gum rosin to adjust the density of citrus oils used in the preparation of beverages. The agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

neither an environmental assessment nor an environmental impact statement is required.

Dated: September 25, 2003.

Laura M. Tarantino,

Deputy Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 03–26267 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cooperative Agreement to Support the National Center for Food Safety and Technology; Notice of Intent to Supplement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN), announces its intent to award on an urgent basis, a single-source, program expansion supplement to the current cooperative agreement with the Illinois Institute of Technology (IIT) for $1.1 million in fiscal year (FY) 2004. This cooperative agreement provides support for the National Center for Food Safety and Technology (NCFST), which is located on IIT's Moffett Campus in Summit-Argo, IL. The additional funding will enable IIT to undertake two new food contaminant mitigation projects and to continue the build-out of the biosafety level 3 (BSL–3) laboratory that began last year.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura Stephanos, Division of Contracts and Grants Management (HFA–531), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7183, e-mail: *mstepha1@oc.fda.gov*.

Regarding the programmatic aspects: Karen Carson, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1664, e-mail: *kcarson@cfsan.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Restricted Eligibility

Assistance will be provided to IIT for the following reasons:

1. As part of FDA's food safety and security program, development of effective mitigation strategies requires a better understanding of food processing techniques that could be used to reduce the likelihood that contaminants persist in food following processing. This type of research requires expertise in food processing and packaging in addition to the availability of facilities and equipment appropriate to this type of research. The IIT/NCSFT has these resources. Additionally, IIT/NCSFT has available through this collaborative research program, the scientific and practical experience in a wide variety of food commodities and processing techniques that will feed into the development of mitigation strategies. This research will build on the ongoing food safety research program.

2. Last fiscal year FDA provided funds to IIT to expand the existing BSL–3 pilot plant facility to include BSL–3 laboratories. This is the only BSL–3 food processing pilot plant to which FDA has ready access. Expansion of the BSL–3 pilot plant facility will provide critical support to the overall research and will provide the flexibility to have more than one ongoing research project at a time. The additional funds will assure full operation of the facility and implementation of security measures consistent with Federal, State, and local requirements. Supplemental funds will allow the work on the BSL–3 pilot plant to be completed as quickly as possible.

II. Funding

It is anticipated that $1.1 million will be made available to fund this urgent, single-source, program expansion supplement in FY 2004.

Dated: October 9, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26269 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Labels, Packaging, Restaurants, and Weight Management; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), in collaboration with the Department of Health and Human Service's Office of the Assistant Secretary for Planning and Evaluation (OASPE) and FDA's Center for Food Safety and Applied Nutrition (CFSAN), is announcing a public workshop entitled ''Exploring the Connections Between Weight Management and Food Labels and Packaging.'' The workshop is being held in response to the growing concern about obesity in the United States. It is intended to be a science workshop (i.e., nutrition, consumer science, economics, marketing and other relevant sciences) that will look at available data to identify options (and pros and cons) about FDA's food labeling and food packaging requirements that are relevant to consumer weight management decisions.

DATES: The public workshop will be held on November 20, 2003, from 8:30 a.m. to 6 p.m.

Location: The public workshop will be held at the Lister Hill Conference Center, National Institutes of Health Bldg. 38A, 8600 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Amber Jessup, Center for Food Safety and Applied Nutrition (HFS–726), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1689, *amber.jessup@fda.gov*.

Registration: There is no registration fee for the workshop; however, seating is limited. Therefore, interested parties are encouraged to register early. You may register online by clicking on *https://secure.z-techcorp.com/cmt/* (FDA has verified the Web site address but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**). All those planning to preregister must register no later than Friday, November 7, 2003. Registration will close after the workshop is filled. Onsite registration will be done on a space-available basis on the day of the public workshop beginning at 8 a.m. If you have any questions, please contact Karen Ellis at 301–315–2806 or via e-mail at *kellis@z-techcorp.com*. If you need special accommodations due to a disability, please contact Ms. Ellis at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The workshop is being held in response to the growing concern about obesity in the United States. The workshop is co-sponsored by FDA, CFSAN and OASPE. The workshop will be of primary interest to nutritionists, marketing experts, social marketing experts, industry, the legal community involved in food labeling and marketing issues, government agencies, consumer groups, and clinicians with obesity expertise. The goal of this science workshop is to

look at the available data and to identify options (pro & con) for food labeling and food packaging, which are relevant to consumers' weight management decisions. Topics to be discussed at the workshop include: ''Current food labels and packaging: Effects on weight management and reduced risk of overweight and obesity'' and ''Data supporting options for change.'' The workshop will include sessions with expert views on food packaging and labeling, and on messaging in the restaurant environment relevant to overall weight management.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page.

Dated: October 8, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26268 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0470]

Preparation for the International Conference on Harmonisation Meetings and ICH 6 Conference in Osaka, Japan; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting entitled ''Preparation for ICH Meetings and ICH 6 Conference in Osaka, Japan, November 9–15, 2003'' to provide information and receive comments on the International Conference on Harmonisation (ICH) as well as the upcoming meetings in Osaka, Japan. The topics to be discussed are the topics for discussion at the forthcoming ICH Steering Committee Meeting. The purpose of the meeting is to solicit public input prior to the next Steering Committee and Experts Working Groups meetings and ICH 6 Public Conference in Osaka, Japan, November 2003, at which discussion of the topics underway and the future of ICH will continue.

Date and Time: The meeting will be held on November 3, 2003, from 1 p.m. to 4 p.m.

Location: The meeting will be held at 5600 Fishers Lane, 3d floor, Twinbrook Conference Room, Rockville, MD 20857.

Contact Person: Christelle Anquez, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20817, 301–827–0037, FAX: 301–480–0716, *e-mail: canquez@oc.fda.gov.*

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), and written material and requests to make oral presentations, to the contact person by October 24, 2003. If you need special accommodations due to a disability, please contact Christelle Anquez at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The International Conference on Harmonisation of Technical Requirements for the Registration of Pharmaceuticals for Human Use was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health, Labor and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and Health Canada, the European Free Trade Area and the World Health Organization. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions.

The current ICH process and structure can be found at the following Web site: *http://www.ich.org* (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register)**.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public will be scheduled between approximately 3:15 p.m. and 4 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by October 24, 2003, and submit a brief statement of the general nature of the evidence or arguments they which to present, the names and addresses, phone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available on October 17, 2003, via the Internet at *http://www.fda.gov/cder/calendar/meeting/ich2003/nov3meeting.htm.*

Information on the ICH 6 Public Conference in Osaka, Japan on November 12–15, 2003, can be obtained via the internet at *http://www.ich.org/ich6tris.html* (FDA has verified the Web site address, but is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register).**

Dated: October 9, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26283 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1997D–0443]

Iron-Containing Supplements and Drugs: Label Warning Statement Requirements; Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a small entity compliance guide (SECG) entitled ''Iron-Containing Supplements and Drugs: Label Warning Statements; Small Entity Compliance Guide'' to revise and update an earlier SECG entitled ''Iron-Containing Supplements and Drugs: Label Warning Statements and Unit-Dose Packaging Requirements; Small Entity Compliance Guide.'' The revised SECG is being issued in response to the withdrawal, in part, of a final rule. The SECG is intended to set forth in plain language the requirements for label warning statements for iron-containing dietary supplement and drug products in solid oral dosage form and to help small businesses understand these requirements.

DATES: Submit written or electronic comments on the SECG at any time.

ADDRESSES: Submit written comments on the SECG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the SECG to *http://www.fda.gov/dockets/ecomments.*

Submit written requests for single copies of the SECG to the Iron Labeling, Industry Activities Staff (HFS–565), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to this guidance document.

FOR FURTHER INFORMATION CONTACT: Robert J. Moore, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1441.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 15, 1997 (62 FR 2218), FDA issued a final rule (1997 final rule) requiring: (1) Label warning statements on iron-containing products taken in solid oral dosage form to supplement the dietary intake of iron or to provide iron for therapeutic purposes, and (2) unit-dose packaging for iron-containing dietary supplement and drug products that contain 30 milligrams (mg) or more of iron per dosage unit. This final rule became effective July 15, 1997. In the **Federal Register** of December 12, 1997 (62 FR 65432), FDA announced the availability of a SECG entitled ''Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose Packaging Requirements; Small Entity Compliance Guide'' (1997 SECG). The 1997 SECG was prepared in accordance with section 212 of the Small Business Regulatory Enforcement Act (Public Law 104–121) and was intended to help small businesses understand the requirements of the 1997 final rule.

Elsewhere in this issue of the **Federal Register**, FDA is withdrawing those parts of the 1997 final rule that established regulations in §§111.50 and 310.518(a) and (b) (21 CFR 111.50 and 310.518(a) and (b)) requiring unit-dose packaging for iron-containing dietary supplement and drug products that contain 30 mg or more of iron per dosage unit. FDA is taking this action in response to the Court's ruling in *Nutritional Health Alliance* v. *FDA* (318 F.3d 92 (2d Cir. 2003)), in which the U.S. Court of Appeals for the Second Circuit invalidated the unit-dose packaging regulations based upon its conclusion that the Federal Food, Drug, and Cosmetic Act does not provide FDA with authority to regulate packaging of iron-containing dietary supplement and drug products for poison prevention purposes. The Court's ruling affects only the unit-dose packaging requirements of the 1997 final rule and not the label warning statement requirements. On remand, the U.S. District Court for the Eastern District of New York entered final judgment in accordance with the Court's decision, declaring the provisions of §§ 111.50 and 310.518(a) invalid and without legal force or effect (*Nutritional Health Alliance* v. *FDA*, No. 97–CV–5042 (E.D.N.Y. filed May 29, 2003)). As a result, the 1997 SECG is being revised in accordance with the Court's ruling and FDA's withdrawal of the unit-dose packaging regulations.

Therefore, FDA is making available the revised SECG entitled ''Iron-Containing Supplements and Drugs: Label Warning Statements; Small Entity Compliance Guide,'' which states in plain language the requirements of the final rule on label warning statements for iron-containing dietary supplement and drug products.

FDA is revising this SECG as level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the agency's current thinking on this subject. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance (see **FOR FURTHER INFORMATION CONTACT**).

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.cfsan.fda.gov/guidance.html.*

Dated: October 7, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26189 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0231]

Draft Guidance for Industry on Providing Regulatory Submissions in Electronic Format—Postmarketing Periodic Adverse Drug Experience Reports; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until December 16, 2003, the comment period for the draft guidance for industry

entitled ''Providing Submissions in Electronic Format—Postmarketing Periodic Adverse Drug Experience Reports.'' FDA published a notice of availability of the draft guidance in the **Federal Register** of June 24, 2003 (68 FR 37504). The agency is taking this action in response to a request for an extension of the comment period.

DATES: Submit written or electronic comments on the draft guidance by December 16, 2003. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Randy Levin, CDER (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5411, *Levinr@cder.fda.gov*, or

Michael Fauntleroy, CBER (HFM–588), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5132, *Fauntleroy@cber.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 24, 2003 (68 FR 37504), FDA published a notice announcing the availability of a draft guidance for industry entitled ''Providing Submissions in Electronic Format—Postmarketing Periodic Adverse Drug Experience Reports.'' This draft guidance discusses issues related to the electronic submission of postmarketing periodic adverse drug experience reports for drug products marketed for human use with new drug applications (NDAs) and abbreviated new drug applications (ANDAs), and therapeutic and blood products marketed for human use with biologics license applications (BLAs). The draft guidance does not apply to vaccines, whole blood, or components of whole blood. Interested persons were given until August 25, 2003, to submit written or electronic comments on the draft guidance. In response to a comment requesting an extension of the comment period, FDA has decided to reopen the comment period on the draft guidance until December 16, 2003, to allow interested persons additional time to submit comments.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance on or before December 16, 2003. Two copies of any mailed comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/cber/guidelines.htm*.

Dated: October 8, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–26266 Filed 10–16–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Petition for Alien Relative; Form I–130.

The Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

The BCIS published a **Federal Register** notice on May 9, 2003 at 68 FR 25054, to solicit public comments for a 60-day period regarding the extension of Form I–130 (Petition for Alien Relative). The BCIS have received no public comment on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 17, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Room 10235, Washington, DC 20530; Attention: Department of Homeland Security Desk Officer.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–130, Bureau of Citizenship and Immigration Services, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or

Households. The information collected on this form will be used by BCIS to determine eligibility for benefits sought for relatives of U.S. citizens and lawful permanent residents.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 183,034 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 91,517 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, 425 I Street, NW., Suite 4034, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, U.S. Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Richard A. Sloan,

Department Clearance Officer, U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 03–26221 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: visa waiver program passenger arrival and department data (file No. OMB–32).

The Department of Homeland Security, Bureau of Customs and Border Protection (CBP), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and temporary clearance in accordance with the Paperwork Reduction Act of 1995. The legacy Immigration and Naturalization Service (INS) published an interim rule containing the proposed information collection in the **Federal Register** on October 11, 2002 at 67 FR 63246. The interim rule also solicited public review and comments on the information collection for a period of 30 days. No comments were received. The INS received temporary OMB approval of this information collection.

The purpose of this notice is to allow an additional 30 days for public comments to extend the use of this information collection for a temporary approval. Comments are encouraged and will be accepted until November 17, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Visa Waiver Program Passenger Arrival and Departure Date.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (file No. OMB–32); Bureau of Customs and Border Protection, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Section 217(h) of the INA requires an automated entry and exit control system by specifying those passenger data elements that must be electronically transmitted to the CBP by carriers seeking to transport Visa Waiver Program passengers into and out of the U.S.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 600 responses at 5 minutes (.083 hours) per response. Frequency of response is 365.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 36,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations, and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Customs and Border Protection.

[FR Doc. 03–26223 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: passenger list, crew list; Form I–418.

The Bureau of Customs and Border Protection (CBP) has submitted the

following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 20, 2003 at 68 FR 8308, allowing for a 30-day public comment period. No public comment was received on this information collection and the collection was granted temporary approval by the OMB.

The purpose of this notice is to allow an additional 30 days for public comments on the extension of the current information collection. Comments are encouraged and will be accepted until November 17, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Passenger List, Crew List.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–418, Bureau of Customs and Border Protection, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary Individuals or Households. This form is prescribed by the Attorney General for the CBP for use by masters, owners or agents of vessels in complying with sections 231 and 251 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 95,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 95,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Department of Homeland Security, 425 I Street, NW., Room 4034, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Customs and Border Protection.

[FR Doc. 03–26225 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request

ACTION: Request OMB Emergency Approval; fee remittance form for certain F–1; J–1 and M–1 nonimmigrants; form I–901.

The Department of Homeland Security (DHS) and the Bureau of Customs and Immigration Enforcement (ICE) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with sections 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The ICE has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. ICE is requesting emergency review from OMB of this information collection to ensure compliance section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), and under 31 U.S.C. 9701 and section 286(m) of the Act. Therefor, OMB approval has been requested by October 24, 2003. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Karen Lee, Department of Justice Desk Officer, 725 17th Street, NW., Suite 10235, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Ms. Lee at 202–395–5806.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the ICE requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until [Insert date of the 60th day from the date that this notice is published in the **Federal Register**]. During the 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Regulations and Forms Services Division, Bureau of Customs and Immigration Enforcement, U.S. Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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:* Fee Remittance Form for Certain F–1, J–1, and M–1 Nonimmigrants.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–901. Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by nonimmigrant students and exchange visitors to submit the fee authorized by Public Law 104–208, subtitle D, section 641. Additionally, this information is required to send receipt to the student or exchange visitor upon payment and to positively identify that a particular student or exchange visitor has paid the fee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 900,000 responses at 19 minutes (.32 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 288,000 annual burden hours.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, U.S. Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Stephen R. Tarragon.

Acting Department Clearance Officer, Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–26220 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Visa Waiver Program Carrier Agreement; Form I–775.

The Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement (ICE), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 26, 2003 at 68 FR 38085, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 17, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Visa Waiver Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to ensure that the transportation company will remain responsible for the aliens it transports to the United States under the Visa Waiver Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 800 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Bureau of Immigration and Customs Enforcement, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, Regional Office Building 3, 7th and D Streets, NW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–26222 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: aircraft/vessel report; Form I–92.

The Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement (ICE), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The request for an extension of this information collection was previously published in the **Federal Register** on February 20, 2003 at 68 FR 8307, allowing for public review and comment for a period of 30 days. Comments were reconciled during the OMB approval process and temporary approval was received.

The purpose of this notice is to notify the public of the agency request to extend this information collection and to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 17, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Aircraft/Vessel Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–92, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is part of the manifest requirements of Section 231 and 251 of the Immigration and Nationality Act and is used by the DHS and other agencies for data collection and statistical analysis.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 720,000 responses at 11 minutes (.183 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 129,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required, contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 9, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–26224 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4817–N–19]

Notice of Proposed Information Collection for Public Comment—Statement of Homeowner Obligations, Housing Choice Homeownership Voucher Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 16, 2003.

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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

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).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 submission of responses.

This Notice also lists the following information:

Proposal: Statement of Homeownership Obligations, Housing Choice Homeownership Voucher Program.

OMB Control Number: 2577–0169.

Description of the need for the information and proposed use: A Public Housing Agency (PHA) may use the Housing Choice Voucher program funding already under the Annual Contributions Contract (ACC) or new tenant-based housing voucher funding for rental or homeownership purposes. The PHA and family participating in the homeownership voucher program must execute a ''statement of homeowner obligations'' before housing assistance payments begin. The information provided will be reviewed by the PHA to further determine eligibility and ensure program compliance.

Agency form numbers, if applicable: HUD–52649.

Members of affected public: State and Local Governments, businesses or other for profits, individuals or households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 400 PHAs, five families per year, one hour, 2000 hours reporting burden; 2000 families per year, .05, 100 hours; 400 PHAs maintaining records, .25, 100 hours recordkeeping burden. The total burden is 2,200 hours.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–29–M

Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. xxxx-xxxx
(exp. 99/99/9999)

Public Reporting Burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information , including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washingon, D.C. 20410-3600 and the Office of Management and Budget, Paperwork Reduction Project (2577-0169), Washington, D.C. 20503. Do not send this completed form to either of the above addresses.

1. Homeowner Obligations. A family participating in the homeownership voucher program of the undersigned public housing agency (PHA) must follow the rules listed below in order to receive homeownership assistance. Any information the family supplies must be true and complete. Each family member (plus any PHA-approved live-in aide for rules associated with criminal activity or alcohol abuse) must:

A. Disclose and verify social security numbers and employer identification numbers, sign and submit consent forms for obtaining information (including criminal conviction records of adult household members), and supply any other information that the PHA or HUD determines to be necessary (including evidence of citizenship or eligible immigration status, information for use in determining eligibility to receive homeownership assistance, and information for use in a regularly scheduled reexamination or interim reexamination of family income and composition).

B. Submit any PHA-required reports on the family's progress in finding and purchasing a home.

C. Attend and satisfactorily complete any PHA-required homeownership and housing counseling.

D. Select and pay for a pre-purchase inspection by an independent professional inspector. The inspection must be conducted in accordance with PHA requirements.

E. Enter into a contract of sale with the seller of the unit and promptly provide a copy of the contract of sale to the PHA. The provisions of the contract of sale must comply with PHA requirements.

F. Obtain and maintain flood insurance for homes in special flood hazard areas.

G. Comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).

H. Promptly notify the PHA in writing when (1) the family is away from the home for an extended period of time in accordance with PHA policies, and (2) before the family moves out of the home. Supply any information or certification requested by the PHA to verify that the family is living in the home or information related to family absence from the home.

I. Only use the assisted home for residence by the PHA-approved family members, live-in aide or foster child. No other person may reside in the home. The home must be the family's only residence and no family member may have any ownership interest in any other residential property. Any legal profit making activities in the home must be incidental to the primary use of the home as a residence. The family must not lease any portion of the home or grounds.

J. Promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child, and request PHA written approval to add any other family member as an occupant of the home. Promptly notify the PHA in writing if any family member no longer lives in the home.

K. Supply any information as required by the PHA or HUD concerning: (1) any mortgage or other debt incurred to purchase the home, any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt; (2) any sale or other transfer of any interest in the home; or (3) the family's homeownership expenses.

L. Promptly notify the PHA in writing if the family defaults on a mortgage securing any debt incurred to purchase the home.

M. Not commit fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program. Not engage in drug-related criminal activity or violent criminal activity. Not engage in other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Not engage in or threaten abusive or violent behavior toward PHA staff. Not engage in other criminal activity which may threaten the health or safety of persons performing a contract administration function or responsibility on behalf of the PHA (including PHA staff and PHA contractor/subcontractor/agent staff).

N. Not lease, let, transfer or convey the home except to grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

O. Not receive homeownership voucher program assistance while receiving another housing subsidy for the same home or a different unit under any duplicative Federal, State or local housing assistance program.

P. Comply with any additional PHA requirements for family search and purchase of a home and continuation of homeownership assistance for the family. The PHA must attach to this document a list of any such requirements.

2. Termination of assistance. Homeownership assistance may only be paid while the family is residing in the home. The PHA may deny or terminate homeownership assistance for any of the reasons listed below:

A. The family violates or has violated any family obligation under section 1.

B. Any member of the family has been evicted from federally assisted housing in the last five years, or any household member has been evicted from federally assisted housing for drug-related criminal activity in the last three years.

C. A PHA has ever terminated assistance under the certificate or voucher program for any member of the family.

D. The family currently owes any money to the PHA or another PHA in connection with Section 8 or public housing assistance. The family has not reimbursed any PHA for amounts paid to an owner under a housing assistance payments contract for rent, damages to the unit, or other amounts owed by the family. The family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.

E. Any household member is subject to a lifetime registration requirement under a State sex offender registration program.

F. Any household member has ever been convicted for manufacture or production of methamphetamine on the premises of federally assisted housing.

G. The family fails to comply, without good cause, with any family self-sufficiency program contract of participation.

H. The family fails, willfully and persistently, to fulfill any welfare-to-work program obligations.

I. The family has been dispossessed from the home pursuant to a judgment order of foreclosure on any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).

J. The PHA determines that homeownership assistance has been provided for the maximum term permitted under the homeownership voucher program, or it has been 180 calendar days since the last homeownership assistance payment on behalf of the family.

K. The PHA determines there is insufficient funding to provide continued homeownership assistance.

KEEP THIS DOCUMENT FOR YOUR RECORDS

Family	
Name of Head of Household	Address, Telephone Number:
Names of Other Family Members	
Signature of Family Representative	Date:

Public Housing Agency	
Name of PHA	Address, Telephone Number:
PHA Representative Title	
Signature of PHA Representative	Date:

form **HUD-52649** (05/13/2003)

[FR Doc. 03–26249 Filed 10–16–03; 8:45 am]
BILLING CODE 4210–29–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–42]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265 (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to mark Johnston at the address listed at the beginning of this notice. Included in the request for review should be the property address (including ZIP Code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address: *Army:* Ms. Julie Jones-Conte, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–ME, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 692–9223; *Energy:* Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, ME–90, Washington, DC 20585; (202) 586–8715; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200. These are not toll-free numbers.

Dated: October 9, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 10/17/2003

Suitable/Available Properties

Buildings (by State)

Washington

Bldg. 87
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200340006
Status: Unutilized
Comment: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 88
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200340007
Status: Unutilized
Comment: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Land (by State)

North Carolina

0.99 acre
Camp Lejeune
Hubert Co: Onslow NC
Landholding Agency: Navy
Property Number: 77200340013
Status: Excess
Comment: land

Utah

0.5 acre
2968 W. Alice Way
West Valley Co: Salt Lake UT 84119–
Landholding Agency: GSA
Property Number: 54200340004
Status: Excess

Comment: paved
GSA Number: 7–U–UT–0515

Suitable/Unavailable Properties

Buildings (by State)

Mississippi

Federal Building
500 West Main Street
Tupelo Co: Lee MS 38801–
Landholding Agency: GSA
Property Number: 54200340002
Status: Surplus
Comment: 28,867 sq. ft., presence of asbestos/possible lead paint
GSA Number: 4–G–MS–0561

Land (by State)

Maryland

1 acre
Naval Air Station
Patuxent River Co: St. Mary's MD 20670–
Landholding Agency: Navy
Property Number: 77200340014
Status: Underutilized
Comment: 1 acre

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 7339A
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200340011
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 08025
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200340012
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Alaska

Bldg. 968
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 27054
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340002
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 28050, 28051, 28105
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 36015
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340004
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 45094, 47782
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340005
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 55294, 55298, 55805
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200340006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2060
Fort Wainwright
Ft. Wainwright Co: AK 99703–6505
Landholding Agency: Army
Property Number: 21200340007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone

Bldg. 2108
Fort Wainwright
Ft. Wainwright Co: AK 99703-6505
Landholding Agency: Army
Property Number: 21200340008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4108
Fort Wainwright
Ft. Wainwright Co: AK 99703-6505
Landholding Agency: Army
Property Number: 21200340009
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4391
Fort Wainwright
Ft. Wainwright Co: AK 99703-6505
Landholding Agency: Army
Property Number: 21200340010
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 1361
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340001
Status: Excess
Reason: Extensive deterioration

Bldg. 22135
Marine Corps Base
Camp Pendleton Co: CA 92055
Landholding Agency: Navy
Property Number: 77200340002
Status: Excess
Reason: Extensive deterioration

Bldg. 22136
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340003
Status: Excess
Reason: Extensive deterioration

Bldg. 22144
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340004
Status: Excess
Reason: Extensive deterioration

Bldg. 22147
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340005
Status: Excess
Reason: Extensive deterioration

Bldg. 22148
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340006
Status: Excess
Reason: Extensive deterioration

Bldg. 22149
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200340007
Status: Excess
Reason: Extensive deterioration

Colorado

Bldgs. 112, 115
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 116, 119
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 120, 120B
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340004
Status: Excess
Reason: Secured Area

Bldgs. 121, 122, 122S
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 126, 127, 128
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 130, 131
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 223
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–

Landholding Agency: Energy
Property Number: 41200340008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 302, 303
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 331, 331A
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340010
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 334, 335
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340011
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 427, 439, 440
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 444, 445
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340013
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 447, 448
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340014
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 450, 451, 455
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340015
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 460
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340016
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

6 Bldgs.
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Location: 549, 551, 552, 553, 554, 556
Landholding Agency: Energy
Property Number: 41200340017
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 664, 668
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 920, 920B
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340019
Status: Excess
Reason: Secured Area

Connecticut

Bldgs. A92, A93, A94
Naval Submarine Base
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200340008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Georgia

Bldg. 00111
Fort Gillem
Ft. Gillem Co: Forest Park GA 30050–5101
Landholding Agency: Army
Property Number: 21200340013
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00116
Fort Gillem
Ft. Gillem Co: Forest Park GA 30050–5101
Landholding Agency: Army
Property Number: 21200340014
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00226
Fort Gillem
Ft. Gillem Co: Forest Park GA 30050–5101
Landholding Agency: Army
Property Number: 21200340015
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00733, 00753
Fort Gillem
Ft. Gillem Co: Forest Park GA 30050–5101
Landholding Agency: Army
Property Number: 21200340016
Status: Unutilized
Reason: Extensive deterioration

Hawaii

Bldg. 450
Fleet Ind. Supply Center
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200340009
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 10
NAVMAG
Lualualei Co: Honolulu HI 96792–
Landholding Agency: Navy
Property Number: 77200340010
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 417
NAVMAG
Lualualei Co: Honolulu HI 96792–
Landholding Agency: Navy
Property Number: 77200340011
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 419
NAVMAG
Lualualei Co: Honolulu HI 96792–
Landholding Agency: Navy
Property Number: 77200340012
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Iowa

Bldgs. 00152, 00895
Iowa Army Ammo Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 21200340017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Kentucky

Bldgs. 02968, 04555
Fort Knox
Ft. Knox Co: KY 40121–
Landholding Agency: Army
Property Number: 21200340018
Status: Unutilized
Reason: Extensive deterioration

Massachusetts

Bldgs. T4321, T4344
Devens RFTA
Devens Co: MA 01432–4429
Landholding Agency: Army
Property Number: 21200340019
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T4354, T4394,
Devens RFTA
Devens Co: MA 01432–4429
Landholding Agency: Army
Property Number: 21200340020
Status: Unutilized
Reason: Extensive deterioration

Bldg. T4364
Devens RFTA
Devens Co: MA 01432–4429
Landholding Agency: Army
Property Number: 21200340021
Status: Unutilized
Reason: Extensive deterioration

New Jersey

Bldg. P4329
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200340022
Status: Unutilized
Reason: Extensive deterioration

Bldg. P4334
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200340023
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T9428, T9422
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506

Landholding Agency: Army
Property Number: 21200340024
Status: Unutilized
Reason: Extensive deterioration

Bldg. T9461
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200340025
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T9489, T9468
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200340026
Status: Unutilized
Reason: Extensive deterioration

New York

Bldg. 00138
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200340027
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–215
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200340028
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00526
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200340029
Status: Unutilized
Reason: Extensive deterioration

Gardiners Point
Long Island Co: Suffolk NY
Landholding Agency: GSA
Property Number: 54200340003
Status: Excess
Reasons: no access/unexploded ordnance; Extensive deterioration
GSA Number: 1–N–NY–897

North Carolina

Bldgs. C3731, C3831
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340030
Status: Excess
Reason: Extensive deterioration

Bldgs. C5430, C5528
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340031
Status: Excess
Reason: Extensive deterioration

Bldgs. C5626, C5630
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340032
Status: Excess
Reason: Extensive deterioration

Bldgs. C5725, C5823, C5826
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340033
Status: Excess
Reason: Extensive deterioration

Bldgs. C6032, C6231, C6329
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340034
Status: Excess
Reason: Extensive deterioration

Bldgs. C6427, C6432, C6433
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340035
Status: Excess
Reason: Extensive deterioration

Bldgs. C6525, C6530
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340036
Status: Excess
Reason: Extensive deterioration

Bldgs. C6628, C6726, C6931
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340037
Status: Excess
Reason: Extensive deterioration

Bldgs. C7037, C7137
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340038
Status: Excess
Reason: Extensive deterioration

Bldgs. C7236, C7334, C7339
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340039
Status: Excess
Reason: Extensive deterioration

Bldgs. C7433, C7437
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340040
Status: Excess
Reason: Extensive deterioration

Bldgs. C7535, C7540
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340041
Status: Excess
Reason: Extensive deterioration

Bldgs. C7634, C7732
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340042
Status: Excess
Reason: Extensive deterioration

Bldg. 25453
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340043
Status: Excess
Reason: Extensive deterioration

Bldg. 37225
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340044
Status: Excess
Reason: Extensive deterioration

Bldg. 37450
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200340045
Status: Excess
Reason: Extensive deterioration

Ohio

Bldg. T091
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200340046
Status: Unutilized
Reason: Extensive deterioration

Pennsylvania

Bldg. 00011
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200340047
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00060
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200340048
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00086
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200340049
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00402, 00442
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200340050
Status: Unutilized
Reason: Extensive deterioration

Bldg. 02006
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200340051
Status: Unutilized
Reason: Extensive deterioration

Puerto Rico

Bldgs. 01108, 01119, 01128
Fort Buchanan
Ft. Buchanan Co: Guaynabo PR 00934–
Landholding Agency: Army
Property Number: 21200340052
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldgs. 01222, 01251, 01258
Fort Buchanan
Ft. Buchanan Co: Guaynabo PR 00934–
Landholding Agency: Army
Property Number: 21200340053
Status: Excess

Reasons: Secured Area; Extensive deterioration

Bldgs. 01260, 01262, 01264
Fort Buchanan
Ft. Buchanan Co: Guaynabo PR 00934–
Landholding Agency: Army
Property Number: 21200340054
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldgs. 01266, 01268, 01270
Fort Buchanan
Ft. Buchanan Co: Guaynabo PR 00934–
Landholding Agency: Army
Property Number: 21200340055
Status: Excess
Reasons: Secured Area; Extensive deterioration

Tennessee

Bldg. A–35
Holston Army Ammo Plant
Kingsport Co: Sullivan TN 37660–
Landholding Agency: Army
Property Number: 21200340056
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. SC–3
ORISE
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200340001
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Texas

Bldg. 1159
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200340057
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6078
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200340058
Status: Unutilized
Reason: Extensive deterioration

Bldg. 7289
Fort Bliss
El Paso. Co: TX 79916–
Landholding Agency: Army
Property Number: 21200340059
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 11309, 11311
Fort Bliss
El Paso. Co: TX 79916–
Landholding Agency: Army
Property Number: 21200340060
Status: Unutilized
Reason: Extensive deterioration

Bldgs. D5026, D5027, D5029,
Grand Prairie Reserve Complex
Grand Prairie Co: Tarrant TX 75051–
Landholding Agency: Army
Property Number: 21200340061
Status: Unutilized
Reason: Extensive deterioration

Bldgs. YAREA
Longhorn Army Ammo Plant
Kamack Co: Harrison TX 75661–
Location: 0003Y, 0004Y, 004Y2, 0013Y, 0016Y, 16Y1, 16Y2, 0018Y, 018Y1, 0029Y, 0032Y, 0034Y, 0038Y, 0040Y, 0045Y
Landholding Agency: Army
Property Number: 21200340062
Status: Excess
Reason: Secured Area

Bldgs. P–3X, 3X–4 of 5
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 00P10, 00P11, 0046A, 0049B, 0053B, 0054B, 0055B, 0056B, 0059B, 0060B, 0068F, 0026E, 0032E, 0029D
Landholding Agency: Army
Property Number: 21200340063
Status: Excess
Reason: Secured Area

Bldgs. P–3X, 3X–3 of 5
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 00S13, 00P13, 00B10, 00B16, SHEDC, 00B15, 00B13, 00B11, 000B9, 000B7, SHEDJ, SHEDD, 000M4, 000P3, 000P1
Landholding Agency: Army
Property Number: 21200340064
Status: Excess
Reason: Secured Area

Bldgs. P–3X 5 of 5
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 0025D, 0025C, 0050G, 0054F, 0053D, 0054G, 0031G, 00403, 00406, 00408, 00409, 0016T, 0020T, 0035T, 0036T036T1
Landholding Agency: Army
Property Number: 21200340065
Status: Excess
Reason: Secured Area

Bldgs. Inert SH1of 3
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 00101, 00102, 0102R, 00103, 000L6, 00402, 000L5, SHEDL, SHEDB, 0061I, 0060I, 0022B, 0032B, 0029A, 0031A
Landholding Agency: Army
Property Number: 21200340066
Status: Excess
Reason: Secured Area

Bldgs. Inert SH3of 3
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 016T1, 020T1, 0034T, 034T1, 0020X, 022X1
Landholding Agency: Army
Property Number: 21200340067
Status: Excess
Reason: Secured Area

Bldgs. SH2 of 3
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 068G1, 068F1, 0022B, 0032B, 054F1, 0040H, 00402, 00404, 00405, 0018G, 0015G, 0009G, 0010G, 0011G
Landholding Agency: Army
Property Number: 21200340068
Status: Excess
Reason: Secured Area

Bldgs. Inert
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 00703, 0703A, 0703C, 0707E, 0018K, 01ST1, 0201A, 00202, 00204, 0022G, 0025G, 0031W, 0049W, 0501E, 510B2, 0601B, 018K1
Landholding Agency: Army
Property Number: 21200340069
Status: Excess
Reason: Secured Area

Bldgs. SHOPS
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 00723, 0722P, 0704D, 00715, 00744, 0722G
Landholding Agency: Army
Property Number: 21200340070
Status: Excess
Reason: Secured Area

Bldgs. Magaz
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 08111, 08117, 81110, 81111, 81112, 81113, 81114, 81117, 81118, 81121, 81122, 81124, 81128, 81141, 81143, 81156
Landholding Agency: Army
Property Number: 21200340071
Status: Excess
Reason: Secured Area

Bldgs. P–3X SHT1of 5
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 02121thru21211, 21214thru21221, 21223, 21225, 21227, 21231Dthru21240, 21242, 21244, 21246, 21248
Landholding Agency: Army
Property Number: 21200340072
Status: Excess
Reason: Secured Area

Bldgs. P–3X SHT2of5
Longhorn Army Ammo Plant
Karnack Co: Harrison TX 75661–
Location: 21250thru21257, 21259, 0027X, 0022X, 0035X
Landholding Agency: Army
Property Number: 21200340073
Status: Excess
Reason: Secured Area

Virginia

Bldg. 02611
Fort Lee
Ft. Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 21200340074
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 81
39307 Kelly Road
Benton City Co: Benton WA 99320–
Landholding Agency: Interior
Property Number: 61200340001
Status: Unutilized
Reason: Extensive deterioration

Garage/81
39307 Kelly Road
Benton City Co: Benton WA 99320–
Landholding Agency: Interior
Property Number: 61200340002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 73
1171 Beane Road
Moxee Co: Yakima WA 98936–
Landholding Agency: Interior
Property Number: 61200340003
Status: Unutilized

Reason: Extensive deterioration

Garage/73
1171 Beane Road
Moxie Co: Yakima WA 98936–
Landholding Agency: Interior
Property Number: 61200340004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 129
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200340005
Status: Unutilized
Reason: Extensive deterioration

Unsuitable Properties

Land (by State)

Alabama

Tract E715
Demopolis Lock & Dam
Greensboro Co: Hale AL 36744–
Landholding Agency: GSA
Property Number: 54200340001
Status: Excess
Reason: no legal access

GSA Number: 4–D–AL–564D–I

Alaska

0.56 acre
Sitka Airport
Sitka Co: AK
Landholding Agency: GSA
Property Number: 54200340005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone
GSA Number: 9–I–AK–791

[FR Doc. 03–26034 Filed 10–16–03; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone: 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361, *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Endangered Species

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
075567	Adam Vinatieri	68 FR 50804; August 22, 2003	September 29, 2003.

Marine Mammals

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
073605	Charles Walker	68 FR 41167; July 10, 2003	September 24, 2003.

Dated: October 3, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–26234 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by November 17, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax: 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone: 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–077886

Applicant: Gary H. Tennison, Gig Harbor, WA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–077300

Applicant: Grant R. Oliver, Coolidge, AZ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–077297

Applicant: Greg J. Gallacher, Wantagh, NY

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–077812

Applicant: Philip J. Gaines, Davis, CA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–076576

Applicant: George H. Brannen, Inverness, FL

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–067307

Applicant: Shark Reef at Mandalay Bay, Las Vegas, NV

The applicant requests amendment of their permit for interstate commerce to obtain three live, captive born Komodo monitors (*Varanus komodoensis*) from the Miami Metro Zoo. The applicant now indicates that only two specimens will be available from Miami with the third captive born animal to be obtained based on AZA SSP recommendation from an institution yet to be designated. The purpose will remain enhancement of the survival of the species through both conservation education and in-situ conservation.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application(s) was/were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361, *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–049136

Applicant: Charles J. Grossman/Xavier University, Cincinnati, OH

The applicant requests amendment of their permit to conduct auditory response research on captive held and or captive born manatees (*Trichechus manatus latirosis*), to include more then two specimens and broadened scope including response to playback sounds of motor boats, manatee vocalizations, etc., in captivity. This notification covers activities to be conducted by the applicant through June 18, 2005.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding a copy of the above application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–077783

Applicant: Julian Alfredo, Vancouver, WA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal use.

PRT–077954

Applicant: Richard Guy Ferrara, South Bend, IN

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

Dated: October 3, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–26235 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request for the Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State courts has been submitted to the Office of Management and Budget for review and renewal. This information collection is cleared under OMB Control Number 1076–0111.

DATES: Written comments must be submitted on or before November 17, 2003.

ADDRESSES: Comments should be submitted to the Desk Officer for the Department of the Interior, Office of Management and Budget, either by facsimile at (202) 395–6566 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov*

Please send a copy of your comments to Larry Blair, Office of Tribal Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., MS–320–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry Blair (202) 513–7621.

SUPPLEMENTARY INFORMATION:

I. Abstract

A State court that appoints counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding in a State court may send written notice to the Bureau of Indian Affairs (Bureau) when appointment of counsel is not authorized by State law. The cognizant Bureau Regional Director uses this information to decide whether to certify that the client in the notice is eligible to have his counsel compensated by the Bureau in accordance with the Indian Child Welfare Act, Public Law 95–608.

On June 9, 2003, the Department of the Interior published a notice in the **Federal Register** (68 FR 34413) requesting public comments on the proposed information collection. The comment period ended August 8, 2003. No comments were received.

II. Method of Collection

The following information is collected from State courts in order to certify

payment of appointed counsel in involuntary Indian child custody proceedings. The information collection is submitted to obtain or retain a benefit; *i.e.*, payment for appointed counsel. The reasons for the collection are listed in the following table:

Information collected	Reason for collection
(a) Name, address and telephone number of attorney appointed	(a) To identify attorney appointed as counsel and method of contact.
(b) Name and address of client for whom counsel is appointed	(b) To identify indigent party in an Indian child custody proceeding for whom counsel is appointed.
(c) Applicant's relationship to child	(c) To determine if the person is eligible for payment of attorney fees as specified in Public Law 95–608.
(d) Name of Indian child's tribe	(d) To determine if the child is a member of a federally recognized tribe and is covered by the Indian Child Welfare Act (ICWA).
(e) Copy of petition or complaint	(e) To determine if this custody proceeding is covered by the ICWA.
(f) Certification by the court that State law does not provide for appointment of counsel in such proceedings.	(f) To determine if other State laws provide for such appointment of counsel and to prevent duplication of effort.
(g) Certification by the court that the Indian client is indigent	(g) To determine if the client has resources to pay for counsel.
(h) The amount of payments due counsel utilizing the same procedures used to determine expenses in juvenile delinquency proceedings.	(h) To determine if the amount of payment due appointed counsel is based on State court standards in juvenile delinquency proceedings.
(i) Approved vouchers with court certification that the amount requested is reasonable considering the work and the criteria used for determining fees and expenses for juvenile delinquency proceedings.	(i) To determine the amount of payment considered reasonable in accordance with State standards for a particular case.

Proposed use of the information: The information collected will be used by the respective Bureau Regional Director to determine:

(a) If an individual Indian involved in an Indian child custody proceeding is eligible for payment of appointed counsel's attorney fees;

(b) If any State statutes provide for coverage of attorney fees under these circumstances;

(c) The State standards for payment of attorney fees in juvenile delinquency proceedings; and,

(d) The name of the attorney, and his actual voucher certified by the court for the work completed on a preapproved case. This information is required for payment of appointed counsel as authorized by Public Law 95–608.

III. Data

(1) *Title of the Collection of Information:* The Department of the Interior, Bureau of Indian Affairs, Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts, 25 CFR 23.13.

OMB Control Number: 1076–0111.

Type of Review: Extension of a currently-approved collection.

Affected Entities: State courts and individual Indians eligible for payment of attorney fees pursuant to 25 CFR 23.13 in order to obtain a benefit.

Estimated number of respondents: 4.

Proposed frequency of response: 1.

(2) *Estimate of total annual reporting and record keeping burden that will result from the collection of this information:* 12 hours.

Reporting: 2 hours per response × 4 respondents = 8 hours.

Recordkeeping: 1 hour per response × 4 respondents = 4 hours.

Estimated Total Annual Burden Hours: 12 hours.

Estimated Annual Costs: $540.00 (12 hours × $45.00 per hour).

(3) *Description of the need for the information and proposed use of the information:* Submission of this information is required in order to receive payment for appointed counsel under 25 CFR 23.13. The information is collected to determine applicant eligibility for services.

IV. Request for Comments

The Department of the Interior invites comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

The comments, names and addresses of commenters will be available for public view during regular business hours. If you wish us to withhold this information, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: September 3, 2003.

Aurene M. Martin,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 03–26288 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1610 DP 001H]

Notice of Availability of the Draft Upper Deschutes Resource Management Plan and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, a Draft Resource

Management Plan/Environmental Impact Statement (DRMP/EIS) has been prepared for the Upper Deschutes planning area of the Prineville District.

DATES: Written comments on the DRMP/EIS will be accepted for 90 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Future meetings or hearings and any other public involvement activities will be announced at least 15 days in advance through public notices, media new releases, and/or mailings.

ADDRESSES: Written comments should be sent to: Prineville District Office, ATTN: Teal Purrington. Comments submitted by electronic mail should be sent to: *upper_deschutes_RMP@or.blm.gov.* Individual respondents may request confidentiality.

If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such request will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Copies of the DRMP/EIS (or an executive summary) have been sent to approximately 1,000 affected federal, state and local agencies, tribal governments and interested members of the public. Copies of the Upper Deschutes Draft Resource Management Plan and Environmental Impact Statement are available in the Prineville District Office at the above address during normal working hours (8 a.m. to 4:30 p.m.) Copies may also be obtained at public libraries located in Bend, Redmond, Prineville, Sisters, and Madras. Copies of the Draft Resource Management Plan and Environmental Impact Statement and associated maps are also available on-line at: *www.or.blm.gov/Prineville/Deschutes_RMP/Home.html.*

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Project Manager, Prineville District, Prineville, Oregon (541) 416–6872.

SUPPLEMENTARY INFORMATION: The area covered by the DRMP/EIS includes approximately 400,000 acres of public domain lands in portions of Deschutes, Crook, Jefferson, and Klamath Counties in central Oregon. The planning boundary extends roughly north between the communities of La Pine, Sisters, and Madras, east to Ochoco and Prineville Reservoirs, and south to the Deschutes National Forest boundary. The planning effort was first initiated in 1995 as the Urban Interface EIS and was reinitiated in October 2001 with the publication of the Upper Deschutes Resource Management Plan Analysis of the Management Situation (AMS).

The Upper Deschutes Resource Management Plan will supersede and revise portions of the Brothers-La Pine Resource Management Plan (1989) and the Two Rivers Resource Management Plan (1986). Some management direction would clarify or improve management direction within the Middle Deschutes and Lower Crooked River Wild and Scenic River Plans. The Upper Deschutes Resource Management Plan will also incorporate strategies and direction identified in the National and Central Oregon Fire Management Plan.

The following local, state, or Federal Governments are Cooperative Agencies for the DRMP/EIS: Deschutes County, City of Redmond, Oregon Military Department, Oregon Department of Transportation, and the Federal Highway Department.

A no action alternative and six ''action'' alternatives were developed using a community-based collaboration strategy. The Resource Management Plan provides future broad-scale management direction for land use allocations and allowable uses on public lands within the planning area. The DEIS examines seven alternatives that respond to the significant issues identified during scoping. These issues include: Ecosystem Health, Land Uses, Recreation, Land Ownership, Transportation and Utility Corridors, and Public Health and Safety. Alternative 7 has been identified as the Preferred Alternative.

Dated: August 12, 2003.

Elaine M. Brong,

State Director, Oregon–Washington USDI–Bureau of Land Management.

[FR Doc. 03–24809 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PB]

Notice of Intent To Prepare a Programmatic Environmental Impact Statement (EIS) To Evaluate Wind Energy Development on Western Public Lands Administered by the Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), as amended; the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321), as amended; and the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), the Bureau of Land Management (BLM) will prepare a Programmatic Environmental Impact Statement (EIS) to evaluate issues associated with wind energy development on western public lands (excluding Alaska) administered by the BLM.

DATES: The BLM will accept written comments on the scope of the Programmatic EIS postmarked by December 19, 2003, and electronic or faxed comments received by December 19, 2003.

The BLM will hold public scoping meetings to obtain comments for the Programmatic EIS at the locations and dates specified in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: You may submit comments by the following methods:

Written: BLM Wind Energy Programmatic EIS Scoping, Argonne National Laboratory EAD/900, 9700 S. Cass Avenue, Argonne, IL 60439.

Web site: *windeis.anl.gov*

Fax: 1–866–542–5903

FOR FURTHER INFORMATION, CONTACT: For general information, including information on how to comment, you may contact Lee Otteni, Bureau of Land Management, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, NM 87401, (505) 599–8911 or visit the Wind Energy Development Programmatic EIS Web site at windeis.anl.gov.

SUPPLEMENTARY INFORMATION:

Meetings

The BLM will hold public scoping meetings to obtain comments for the Programmatic EIS at the following locations on the dates specified below:

Sacramento, California: Monday, November 3, 2003

Salt Lake City, Utah: Wednesday, November 5, 2003

Cheyenne, Wyoming: Wednesday, November 12, 2003

Las Vegas, Nevada: Tuesday, November 18, 2003

Boise, Idaho: Thursday, November 20, 2003

BLM will announce all public meetings through the local media, newsletters, and the project Web site (*windeis.anl.gov*) at least 15 days prior to the meeting.

Comments

The public is encouraged to contact the BLM with information and comments on specific issues it believes BLM should address in the Programmatic EIS. The agency requests information and comments on resources in the western United States that wind energy development may impact. Comments may be in terms of broad areas or restricted to specific areas of concern.

After gathering public comments on what issues BLM should address in the Programmatic EIS, the BLM will identify and provide rationale on those issues we will address in the EIS or those issues beyond the scope of the EIS. In addition to the major issues, BLM will address a number of management questions and concerns in the Programmatic EIS. The public is encouraged to help identify these questions and concerns during the public scoping period.

Scoping comments will be available for public review approximately 45 days following closure of the scoping period. Scoping comments will be posted on the Internet (*windeis.anl.gov*). You may also view the public scoping comments at the Argonne National Laboratory, 1200 Internationale Parkway, Woodridge, IL 60517, Monday through Friday, 9 a.m. to 11:30 a.m., except holidays. To ensure easy access to the comments at Argonne's offices, we ask that you contact the Document Retrieval Center at (630) 252–4587 prior to your visit. Visitors to Argonne will be escorted at all times and will be issued a temporary badge; specific arrangements must be made for visitors who are not U.S. citizens.

Individual respondents may request confidentiality. If you wish BLM to withhold your name or street address, except for the city or town, from public view or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. We will honor requests to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Background Information

In response to recommendations contained in the President's National Energy Policy that encourages the development of renewable energy resources, the BLM is undertaking efforts to evaluate additional wind energy development on public lands, including the establishment of a national wind energy program and policy. The BLM currently administers numerous wind energy right-of-way authorizations on lands in several western states and has received a large number of new project proposals. The BLM has issued interim wind energy development policy (Instruction Memorandum No. 2003–020) that establishes requirements for wind energy site monitoring and testing activities and full commercial development activities. Under the interim policy industry is required to conduct appropriate levels of environmental review before BLM will issue a right-of-way authorization for either monitoring and testing or full commercial development.

The BLM has determined that the establishment of a national wind energy program and additional related policy would be a major federal action as defined by the NEPA and, thus, the BLM will prepare a Programmatic EIS. This NOI provides public notice of preparation of the Programmatic EIS and announces the opportunity for the public to provide comments relating to the preparation, scope, and content of the Programmatic EIS.

The Programmatic EIS will address the possible amendment of individual land use plans to address future development of wind energy resources on BLM-administered lands. BLM will develop a reasonably foreseeable development scenario to define the magnitude of future wind energy development activities and to identify which land use plans might be amended. Examples of possible amendments to land use plans include the:

(1) Adoption of stipulations (*e.g.*, wildlife management guidelines) applicable to wind energy development projects, and

(2) Designation of lands for competitive leasing of wind energy resources.

BLM will include in the scope of this analysis all BLM-administered lands in the western United States, excluding Alaska. The Programmatic EIS will also address the no-action alternative of not establishing national wind energy policies or amending land use plans. Under the no-action alternative, BLM will continue to allow wind energy development in accordance with the requirements of the interim policy, Instruction Memorandum No. 2003–020. BLM may develop other alternatives as a result of scoping.

The BLM anticipates that the Wind Energy Development Programmatic EIS and Record of Decision will be completed in approximately 24 months and will include public and agency scoping; coordination and consultation with Federal, State, and local agencies and tribal governments; publication of a draft EIS; public review of the draft EIS; and publication of a final EIS and Record of Decision. As currently envisioned, the Programmatic EIS will pay special attention to the resources listed below as we understand they are significant issues associated with wind energy development:

Wildlife and wildlife habitat including avian impacts,

Proximity to military activities,

Visual environment, and

Proximity to wilderness or other special management areas.

The Programmatic EIS will also address the indirect and cumulative impacts associated with wind energy development on a wide range of other resource issues.

The Programmatic EIS will describe wind energy technologies, activities undertaken for site monitoring and evaluation, activities undertaken for full commercial development, and the distribution of wind energy resources on a regional scale. The Programmatic EIS will also describe the impact associated with current technologies, monitoring, and mitigation measures and constraints relevant to wind energy development. It will include a statement of the purpose and need for the proposed action, including the effect of wind energy development on the nation's energy supply, economy, and energy security.

The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. Early participation is encouraged and will help determine the future management of the public lands. In addition to the ongoing public participation process, we will provide opportunities for formal participation through comment on the alternatives and upon publication of the draft EIS.

Ray Brady,

Group Manager, Lands and Realty.

[FR Doc. 03–26123 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0091).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 254, ''Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line.'' This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by November 17, 2003.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0091). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov.* Reference Information Collection 1010–0091 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team, (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 254, Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line.

OMB Control Number: 1010–0091.

Abstract: The Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA), requires that a spill-response plan be submitted for offshore facilities prior to February 18, 1993. The OPA specifies that after that date, an offshore facility may not handle, store, or transport oil unless a plan has been submitted. This authority and responsibility have been delegated to the Minerals Management Service (MMS). Regulations at 30 CFR part 254 establish requirements for spill-response plans for oil-handling facilities seaward of the coast line, including associated pipelines.

MMS uses the information collected under 30 CFR part 254 to determine compliance with OPA by owners/operators. Specifically, MMS needs the information to:

- Determine effectiveness of the spill-response capability of owners/operators;
- Review plans prepared under the regulations of a State and submitted to MMS to satisfy the requirements of this rule to ensure that they meet minimum requirements of OPA;
- Verify that personnel involved in oil-spill response are properly trained and familiar with the requirements of the spill-response plans and to witness spill-response exercises;
- Assess the sufficiency and availability of contractor equipment and materials;
- Verify that sufficient quantities of equipment are available and in working order;
- Oversee spill-response efforts and maintain official records of pollution events; and
- Assess the efforts of owners/operators to prevent oil spills or prevent substantial threats of such discharges.

No proprietary, confidential, or sensitive information is collected. However, we will protect any information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR parts 250, 251, and 252. Responses are mandatory or required to obtain or retain a benefit.

Frequency: On occasion and annual.

Estimated Number and Description of Respondents: Approximately 197 owners or operators of facilities located in both State and Federal waters seaward of the coast line.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 38,322 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 254	Reporting requirement	Hour burden	Average No. annual responses	Annual burden hours
254.1(a) thru (d); 254.2(a); 254.3 thru 254.5; 254.7; 254.20 thru 254.29;	Submit spill response plan for OCS facilities and related documents.	120	25 new plans	3,000
254.44(b)	.....	.....	.....	.....
254.1(e)	Request MMS jurisdiction over facility landward of coast line (no recent request received).	0.5	2 requests	1
254.2(b)	Submit certification of capability to respond to worst case discharge or substantial threat of such.	15	1 certification	15
254.2(c); 254.30	Submit revised spill response plan for OCS facilities at least every 2 years.	36	174 revised plans.	6,264
254.2(c)	Request deadline extension for submission of revised plan.	4	10	40
254.8	Appeal MMS orders or decisions	Burden covered under 30 CFR 290 (1010–0121).		0
254.42(f)	Inform MMS of the date of any exercise (triennial)	1	158 notifications.	158
254.46(a)	Notify NRC of all oil spills from owner/operator facility.	Burden would be included in the NRC inventory.		0

Citation 30 CFR 254	Reporting requirement	Hour burden	Average No. annual responses	Annual burden hours
254.46(b)	Notify MMS of oil spills of one barrel or more from owner/operator facility; submit followup report.	2	60 notifications & reports.	120
254.46(c)	Notify MMS & responsible party of oil spills from operations at another facility.	2	24 notifications.	48
254.50; 254.51	Submit response plan for facility in State waters by modifying existing OCS plan.	42	10 plans	420
254.50; 254.52	Submit response plan for facility in State waters following format for OCS plan.	100	9 plans	900
254.50; 254.53	Submit response plan for facility in State waters developed under State reqmts.	89	18 plans	1,602
254.54	Submit description of oil-spill prevention procedures.	5	36 submissions.	180
Subtotal—Reporting			527.	
254.40	Make records of all OSRO-provided services, equipment, personnel available to MMS.	5	20	100
254.41	Conduct annual training; retain training records for 2 years.	50	180 owners/operators.	9,000
254.42(a) thru (e)	Conduct triennial response plan exercise; retain exercise records for 3 years.	1101	31 exercises	14,410
254.43	Inspect response equipment monthly; retain inspection & maintenance records for 2 years.	3.5	42 inspections x 12 months = 504.	1,764
254.1 thru 254.54	General departure or alternative compliance requests not specifically covered elsewhere in part 254.	50	6	300
Subtotal—Recordkeeping			841 Recordkeepers (RKs).	
Total Hour Burden			1,368 Responses/RKs.	38,322

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on April 24, 2003, we published a **Federal Register** notice (68 FR 20168) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 254.9 displays the OMB control number, specifies that the public may comment at anytime on the collection of information required in the 30 CFR part 254 regulations, and provides the address to which they should send comments. We have received no comments in response to those efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by November 17, 2003.

Public Comment Policy: MMS practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that their home address be withheld from the record, which will be honored to the extent allowable by the law. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. However, anonymous comments will not be considered. MMS will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Denise Johnson, (202) 208–3976.

Dated: July 22, 2003.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–26326 Filed 10–16–03; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO

Notice of Availability of a Draft Environmental Impact Statement and Draft Finding of No Significant Impact for Sediment Removal Downstream of Retamal Diversion Dam, in the Lower Rio Grande Flood Control Project, located in Hidalgo County, TX

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the U.S. Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the U.S. Section hereby gives notice that the Draft Environmental Assessment and Draft Finding of No Significant Impact for *Sediment Removal Downstream of Retamal Diversion Dam,* in the Lower Rio Grande Flood Control Project, located in Hidalgo County, Texas are available.

The project includes dredging the sediment and beneficially use or dispose of all the material on vacant Mexican Federal Government land adjacent to the river at the dredging location. The size of the project area is approximately 4.94 acres, which includes 2.1 acres of wetland. The EA analyzes potential impacts from dredging approximately 54,000 cubic yards of sediment material, either hydraulically or mechanically, during the non-irrigation season between September and February when water levels in the Rio Grande are maintained at lower levels. Construction activities include transporting dredged materials to dewatering cells on the Mexican riverbank. A hydraulic piping system may be set up to transport the slurry mix directly to the final disposal area or the materials may be transported by trucks provided by Mexico, depending on the disposal method. A coffer dam may also be constructed to de-water alternate sides of the river during dredging activities. The EA provides details of the action, explains the purpose and need for the action, and assesses the potential impacts of the Proposed Action. The EA also analyzes the No Action Alternative. On the basis of the Draft EA, the United States Section has determined that an environmental impact statement is not required to implement the proposed action and hereby provides notice of a finding of no significant impact. An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this Notice.

The Draft EA and Draft Finding of No Significant Impact have been sent to the Environmental Protection Agency and various federal, state, and local agencies and interested parties. The Draft EA and Draft FONSI are available under ''What's New?'' on the USIBWC Home Page at *www.ibwc.state.gov*; the reference desk at the public libraries in Weslaco or Harlingen, TX; or at the USIBWC Mercedes Field Office at 325 Golf Course Road, Mercedes, TX 78570.

DATES: Written comments on the Draft EA and Draft FONSI will be accepted through November 17, 2003.

ADDRESSES: Written comments and inquiries on the Draft FONSI and Draft EA should be directed to Mr. Daniel Borunda, 4171 N. Mesa, Suite C–100, El Paso, Texas 79902. Phone: (915) 832–4701, Fax: (915) 832–4167, e-mail: *danielborunda@ibwc.state.gov.*

Dated: October 7, 2003.

Mario Lewis,

General Counsel.

[FR Doc. 03–25980 Filed 10–16–03; 8:45 am]

BILLING CODE 4710–03–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–03–033]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: October 24, 2003 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 meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–1054–1055 (Preliminary) (Light-Walled Rectangular Pipe and Tube from Mexico and Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on October 24, 2003; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before October 31, 2003.)
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.

Issued: October 15, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–26393 Filed 10–15–03; 12:36 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–03–032]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: October 22, 2003 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 meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1022 (Final) (Refined Brown Aluminum Oxide 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 November 3, 2003.)
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.

Issued: October 15, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–26394 Filed 10–15–03; 12:36 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Judgment Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 30, 2003, a proposed Consent Judgment in *United States* v. *City of Glen Cove, et al.,* Civil Action No. CV–03–4975, was lodged with the United States District Court for the Eastern District of New York.

The Proposed Consent Judgment will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, on behalf of the U.S. Environmental Protection Agency (''EPA'') against defendants City of Glen Cove (''City''), and Wah Chang Smelting and Refining Company of America, Inc. (''WCSRCA'') in connection with the Li Tungsten Superfund Site in Glen Cove, New York. The proposed Consent Judgment also resolves the potential contribution liability of four Settling Federal Agencies, the Department of Defense, the General Services Administration, the Department of Commerce, and the Department of the Treasury, to the City and WCSRCA. Pursuant to the Consent Judgment, based on their respective ability to pay, the City will pay $1.6 million (in addition to the $3.6 million in funds and in-kind services it has already provided to EPA) and WCSRCA will pay $700,000 to a Li Tungsten Site Special Account within the Superfund. The United States, on behalf of the Settling Federal Agencies, will pay $20 million to the Special Account, and thereafter be required to make additional payments in the amount of 51 percent of the amount by which the total response costs at the Site exceed $39,216,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Glen Cove, et al.*, Civil Action No. CV–03–4975, D.J. Ref. 90–11–3–06561/2.

The proposed Consent Judgment may be examined at the Office of the United States Attorney, Eastern District of New York, One Pierrepont Plaza, 14th Fl., Brooklyn, New York 11201, and at the United States Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007–1866. During the public comment period, the proposed Consent Judgment may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed Consent Judgment may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. If requesting a copy of the proposed Consent Judgment, please so note and enclose a check in the amount of $14.25 (25 cent per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26248 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on September 30, 2003, a Consent Decree in *United States and New Jersey* v. *Coastal Eagle Point Oil Co.,* Civil Action No. 1:03cv04525 (JHR) was lodged with the United States District Court for the District of New Jersey.

In a complaint that was filed simultaneously with the Consent Decree, the United States and New Jersey sought injunctive relief and penalties against Coastal Eagle Point Oil Co. (''CEOPOC''), pursuant to sections 113(b) and 304(a) of the Clear Air Act (''CAA''), 42 U.S.C. 7413(b), 7604(a) (1983), *amended by,* 42 U.S.C. 7413(b) (Supp. 1991), for alleged CAA and New Jersey Air Pollution Control Act violations at CEPOC's refinery in Westville, New Jersey.

Under the settlement, CEPOC will implement innovative pollution control technologies to reduce emissions of nitrogen oxides, sulfur dioxide, and particulate matter from refinery process units. CEPOC also will adopt facility-wide enhanced benzene waste monitoring and fugitive emission control programs. In addition, CEPOC will pay a civil penalty of $2.5 million for settlement of the claims in the United States' and New Jersey's complaint. Finally, CEPOC will pay $1 million to the Northeast States for Coordinated Air Use Management to be used to eliminate diesel emissions from idling trucks at the Paulsboro Travel Central on Interstate 295 in New Jersey. New Jersey joined in the settlement as a co-plaintiff and co-signatory to the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and New Jersey* v. *Coastal Eagle Point Refining Co.,* D.J. Ref. No. 90–5–2–1–08096.

The Consent Decree may be examined at the Office of the United States Attorney, 401 Market St., 4th Floor, Camden, NJ 08101, and at U.S. EPA Region 2, 290 Broadway, New York, New York, 10007–1866. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclosed a check in the amount of $32.00 (25 Cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26243 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on September 30, 2003, the United States lodged a proposed consent Decree between the United States, the Mississippi Commission on Environmental Quality, the West Virginia Department of Environmental Protection, Ergon Refining, Inc. (''ERI''), and Ergon-West Virginia, Inc. (''EWV'') with the United States District Court for the South District of Mississippi in the case of *United States, et al.* v. *Ergon Refining, Inc. et al.,* Civil Action No. 3:03CV1140WSU.

In a complaint that was filed simultaneously with the Consent Decree, the United States sought injunctive relief and penalties against ERI and EWV pursuant to section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), for alleged Clean Air Act violations at ERI's refinery located in Vicksburg, Mississippi, and EWV's refinery located in Newell, West Virginia.

Under the settlement, ERI and EWV will implement innovative pollution control technologies to greatly reduce emissions of nitrogen oxides (''NO_2''), sulfur dioxide (''SO_2''), particulate matter (''PM''), carbon monoxide (''CO''), and benzene from refinery process units and will adopt facility-wide enhanced monitoring and fugitive emission control programs. ERI and EWV have estimated that this injunctive relief will cost the companies approximately $8,315,000. ERI will pay a civil penalty of $138,000, which the State of Mississippi will share, and spend more than $80,000 on a supplemental environmental project to make modifications to and purchase equipment for the Vicksburg Volunteer Fire Department. EWV will pay a civil penalty of $111,6000, which the State of West Virginia will share, and spend more than $167,000 on supplemental environmental projects by upgrading controls on existing drains, replacing four conventional burners with ultra low NO_X burners, and purchasing equipment for the Newell Volunteer Fire Department. ERI also will perform additional injunctive relief by installing a new oil water separator tank for the wastewater treatment system totaling approximately $1.5 million. The States of Mississippi and West Virginia will join in this settlement as signatories to the Consent Decree. In addition, EPA and EWV have entered into an administrative Consent Agreement and Final Order in which EWV has agreed to pay a $155,000 civil penalty to EPA, and an Administrative Compliance Order by consent in which EWV has agreed to install certain wastewater treatment controls. The administrative orders are incorporated by reference and fully enforceable under the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.,* v. *Ergon Refining, Inc. et al.,* D.J. Ref. 90–5–2–1–06064/3.

The Consent Decree may be examined at U.S. EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104, and U.S. EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029. During the public comment period, the Consent decree may be viewed on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* a copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or emailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $35.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26247 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *G & R Farms, Inc. and Robert E. Dasher* (S.D. Ga.), CV 603–115, was lodged with the United States District Court for the Southern District of Georgia, Stateboro Division, on September 25, 2003.

This proposed Consent Decree concerns a compliant filed by the United States against G & R Farms, Inc. and Robert E. Dasher, pursuant to section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the defendants to restore the impacted areas and to pay a civil penalty. The Consent Decree also provides for the defendants to perform a supplemental environmental project.

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 *United States* v. *G &R Farms and Robert E. Dasher* (S.D. Ga) CV603–115, DJ #90–5–1–1–05552.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Southern District of Georgia, Statesboro Division, 52 N. Main Street, Statesboro, GA 30458. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 03–26245 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7 and 42 U.S.C. 9622(i), notice is hereby given that on October 2, 2003, a proposed Consent Decree in *United States* v. *Sidney Hasselquist, et al.,* Civil Action No. 8:03CV404 was lodged with the United States District Court for the District of Nebraska.

In this action the United States sought response costs relating to response actions by the Environmental Protection Agency (''EPA'') at the 10th Street Superfund Site in Columbus, Nebraska at which concentrations of trichloroethylene and tetrachloroethylene were discovered in the soil, soil gas and groundwater. The Consent Decree settles the United States' claims in exchange for EPA access to the Site and injunctive relief.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *U.S.* v. *Sidney Hasselquist* Consent Decree, D.J. Ref. 90–11–2–07430.

The Consent Decree may be examined at the Office of the United States Attorney, District of Nebraska, 1620 Dodge Street, Suite 1400, Omaha, NE 68102–1506, (402) 661–3700, and at U.S. EPA Region VII, U.S. EPA, Region VII, 901 N. 5th Street, Kansas City, KS

66101, (913) 551–7471. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy form the Consent Decree Library, please enclose a check in the amount of $10.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26246 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

In accordance with 28 CFR 50.7, notice is hereby given that on October 7, 2003, a proposed Consent Decree in *United States, et al.* v. *National Cooperative Refinery Association*, Civil Action No. 03–1348–JTM was lodged with the United States District Court for the District of Kansas.

This Consent Decree resolved claims by the United States on behalf of the Environmental Protection Agency and the State of Kansas on behalf of the Kansas Department of Health and the Environment for injunctive relief and civil penalties pursuant to the Clean Air Act, against the National Cooperative Refinery Association (NCRA) arising out of their operation of the McPherson, Kansas petroleum refinery. The Consent Decree requires NCRA to pay a civil penalty of $350,000, to implement technologies and programs valued at more than $339 million to reduce sulphur dioxide, nitrogen oxides and particulate matter emissions and perform a supplemental environmental project valued at $1.5 million to remove chloride pollutants from groundwater at the faculty.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment an Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.* v. *National Cooperative Refinery Association*, Civil Action No. 03–1348–JTM (D.Kan.), D.J. Ref. 90–5–1–1–06025/2.

The Consent Decree may be examined at the Office of the United States Attorney, District of Kansas, 1200 Epic Center, 301 N. Main St., Wichita, Kansas 67202 and at the Region 7 offices of the US EPA at 901 North Fifth Street, Kansas City, KS 66101. During the public comment period, the Consent Decree, may also be examined on the Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $24.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26241 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 42 U.S.C. 9622(d)(2), 42 U.S.C. 6973(d), and 28 C.F.R. 50.7, notice is hereby given that on October 1, 2003, a proposed Consent Decree in *United States and the State of Wisconsin* v. *P.H. Glatfelter Company and WTM I Company,* Civil Action No. 03–C–949 (E.D. Wis.) was lodged with the United States District Court for the Eastern District of Wisconsin.

The Consent Decree concerns polychlorinated biphenyl (''PCB'') contamination in the portion of the Lower Fox River and Green Bay Site designated as Operable Unit 1. Under the proposed settlement set forth in the Consent Decree, P.H. Glatfelter Company and WTM I Company (the ''Defendants'') would implement the cleanup remedy for Operable Unit 1 that was selected in a December 2002 Record of Decision issued jointly by the U.S. Environmental Protection Agency (''EPA'') and the Wisconsin Department of Natural Resources (''WDNR''). The Defendants would pay for that remedial action work using a specially-dedicated fund to be established by the companies. That fund would ultimately hold more than $60 million, including $50 million from the Defendants, an additional $10 million available under a prior interim settlement with Appleton Paper Inc. and NCR Corporation, and all interest earned on the money placed in the fund. If that dedicated fund is not sufficient to finance the completion of the work, the Consent Decree reserves the Plaintiffs' rights to require the Defendants to perform or pay for the continuation and completion of the work. The settlement would not resolve the Defendants' potential liability for response activities or response costs relating to areas of the Site other than Operable Unit 1. The Consent Decree also would require the Defendants to pay $3,000,000 for natural resource damages and $1,050,000 as partial reimbursement of past costs incurred by EPA, WDNR, and the U.S. Department of the Interior. Even so, the Consent Decree would not resolve the Defendant's potential liability for payment of additional natural resources damages or for additional unreimbursed past costs incurred by the United States or the State of Wisconsin.

The United States intends to hold a public meeting regarding the Consent Decree in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 6973(d). The meeting will be held at the Neenah Public Library, 240 E. Wisconsin Street in Neenah, from 7:00 p.m. to 9 p.m. on Wednesday, October 29, 2003. Representatives of the Department of Justice, EPA, and WDNR will attend the public meeting to provide information and to answer questions concerning the Consent Decree. Formal comments relating to the Consent Decree will not be accepted in oral form at the public meeting. Any such comments should be submitted in writing as described below.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and the State of Wisconsin* v. *P. H. Glatfleter Company and WTM I Company,* Civil Action No. 03–C–949 (E.D. Wis.) and D.J. Ref. 90–11–2–1045/2.

The Consent Decree may be examined at: (1) The offices of the United States Attorney, 517 E. Wisconsin Avenue, Room 530, Milwaukee, Wisconsin; and (2) the offices of EPA Region 5, 77 West Jackson Boulevard, 14th Floor, Chicago, Illinois. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.htm.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $77.00 (308 pages at 25 cents per page reproduction cost) payable to the U.S. Treasury. For a copy of the Consent Decree alone, without appendices, please enclose a check a check in the amount of $27.50 (110 pages at 25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–26244 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *State of Washington Through The Washington Department of Natural Resources,* Civil Action No. C03–5543RBL was lodged on October 6, 2003, with the United States District Court for the Western District of Washington. The consent decree requires the defendant to perform injunctive relief, requiring two groups of performing parties to perform the cleanup of the Thea Foss and Wheeler Osgood Waterway Problem Areas of the Commencement Bay/Nearshore Tideflats Superfund Site and the funding parties to pay a total of $13,000,000 to fund cleanup activities at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *State of Washington Through The Washington Department of Natural Resources,* DOJ Ref. #90–11–2–1049/1.

The proposed consent decrees may be examined at the office of the United States Attorney, 601 Union Street, Suite 5100, Seattle, WA 98101 and at U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. During the comment period, the consent decrees may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* Copies of the consent decrees also may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $11.25, (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 03–26242 Filed 10–16–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of ever contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of

Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI030001 (Jun. 13, 2003)

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

Wyoming
WY030005 (Jun. 13, 2003)
WY030006 (Jun. 13, 2003)
WY030007 (Jun. 13, 2003)
WY030008 (Jun. 13, 2003)
WY030009 (Jun. 13, 2003)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 9th day of October 2003.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–26045 Filed 10–16–03; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; President's Committee on the Arts and the Humanities: Meeting #54

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities will be held on Thursday, November 6, 2003 from 9 a.m. to approximately 12 p.m. The meeting will be held in the Potomac Room at the St. Regis Hotel, 923 16th Street, NW., Washington, DC.

The Committee meeting will begin at 9 a.m. with a welcome, introduction of new staff members, announcements, and remarks by Adair Margo, Committee Chairman. The meeting will include updates on Youth Orchestra of the Americas and Save America's Treasures. The remainder of the meeting will focus on PCAH support for After School Youth Arts and Humanities programs, including a discussion on the Coming Up Taller assessment developed by the National Assembly of State Arts Agencies. The meeting will adjourn following Closing Remarks.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the nation's cultural institutions and to promote public understanding of the arts and the humanities.

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Georgiana Paul of the President's Committee seven days in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW., Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Paul.

If you need special accommodations due to a disability, please contact Ms. Hoffman through the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Dated: October 14, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–26354 Filed 10–16–03; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Arts Education section (Learning in the Arts for Children and Youth category, Music, Musical Theater, Opera, & Theater) to the National Council on the Arts will be held on November 3–7, 2003 in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting, from 12:30 p.m. to 1:30 p.m. on November 7th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6 p.m. on November 3rd, 5th, and 6th, from 9:30 a.m. to 6 p.m. on November 4th, and from 9 a.m. to 12:30 p.m. and 1:30 p.m. to 3:45 p.m. on November 7th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant

applicants. In accordance with the determination of the Chairman of April 30, 2003, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 14, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–26353 Filed 10–16–03; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (1110).

Date and Time

November 13, 2003; 8:30 a.m.–5 p.m.

;November 14, 2003; 8:30 a.m.–3 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

Type of Meeting Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Tel. No.: (703) 292–8400.

Minutes May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Planning and Issues Discussion:

- Reports on AC Workshops.
- Reports on Working Groups.
- Committee of Visitors Reports.

Dated: October 14, 2003.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 03–26303 Filed 10–16–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

Firstenergy Corporation, Perry Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a one-time schedular exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Section 50.71(e)(4) for Facility Operating License No. NPF–58, issued to FirstEnergy Corporation (the licensee), for operation of the Perry Nuclear Power Plant, located in Lake County, Ohio. Therefore, pursuant to 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensee to extend the time for submitting the periodic update to the Final Safety Analysis Report (FSAR) by 120 days from September 10, 2003, to January 8, 2004. Specifically, 10 CFR part 50.71(e)(4) requires that licensees provide the NRC with updates to the FSAR annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months. The revisions must reflect changes up to 6 months prior to the date of filing. This regulation would require the submittal of the Perry Nuclear Power Plant (PNPP) FSAR update by September 10, 2003.

The proposed action is in accordance with the licensee's application for exemption dated August 8, 2003.

The Need for the Proposed Action

While preparing the scheduled submittal, a computer failure occurred affecting the PNPP electronic data management system which resulted in the loss of over 11,000 electronic documents. Updates to the FSAR that were being prepared were among the documents lost. Due to the need to reconstruct the updated FSAR information that was lost, additional time is needed to complete the submittal. The requirement to reflect changes up to 6 months prior to the date of filing would still apply. The exemption is requested to allow adequate time to complete the submittal.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption is administrative and would not affect any plant equipment, operation, or procedures. The FSAR contains the analysis, assumptions, and technical details of the facility design and operating parameters. Until the FSAR is updated, the recent changes are documented in the licensee's written evaluations of changes prepared pursuant to 10 CFR 50.59, and in the Commission's Safety Evaluations for actions requiring prior approval. A delay in submitting the FSAR update will not change the plant design or the manner in which it is operated.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for Perry Nuclear Power Plant, dated April 1974.

Agencies and Persons Consulted

On September 26, 2003, the staff consulted with the Ohio State official, Carol O'Claire of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 8, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of September.

For the Nuclear Regulatory Commission.

L. Raghavan,

Chief, Section 1, Project Directorate III–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–26279 Filed 10–16–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27735]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 10, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 4, 2003, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 4, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–10112)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090, a registered public-utility holding company, and Northeast Nuclear Energy Company (''NNECO''), 107 Selden Street, Berlin, Connecticut 06037, NU's wholly owned subsidiary (together ''Applicants''), have filed an application-declaration under sections 6(a), 7 and 12(c) of the Act and rules 26(c)(3), 42, 43, 44 and 46(a). Applicants request authorization for NNECO to pay dividends to and, or in the alternative, to repurchase stock from, NU out of capital or unearned surplus through December 31, 2004 (''Authorization Period'').

NNECO was incorporated in 1950. Through a Special Act of the Connecticut Legislature passed in 1967, the company has a valid franchise under Connecticut law to sell electricity to utility companies engaging in electric business in Connecticut and other states; to manufacture, generate and transmit electricity; and to erect and maintain facilities on certain public highways and grounds. NNECO's sole activity has been to act as agent for the NU system companies and other New England utilities in operating and maintaining the Millstone nuclear generating facilities located in Waterford, Connecticut (''Millstone'').

Until March 2001, Millstone's facilities were jointly owned by The Connecticut Light and Power Company (''CL&P'') and Western Massachusetts Electric Company (''WMECO'') (two public utility subsidiaries of NU and affiliates of NNECO) and other nonaffilitated utility companies. In March 2001, CL&P, WMECO and most of the other joint owners of Millstone sold their interests in Millstone to a subsidiary of Dominion Resources, Inc. CL&P and WMECO sold their 100% interests in Millstone 1 and 2 and, with other selling owners, 94% of Millstone 3. As a result, NNECO no longer acts as agent for any owner in the operation and maintenance of Millstone 1, 2 or 3. It is largely inactive and is winding up its business. NU continues to maintain NNECO as a corporate entity in the event that any unforeseen liabilities arise from past Millstone operations. Nevertheless, to simplify its corporate structure, NU intends to liquidate and dissolve NNECO eventually.

NNECO would like to return up to $16.2 million to NU, an amount equal to the approximate value of NNECO's common stockholders' equity. The Applicants represent that, as of June 30, 2003, NNECO's paid-in-capital surplus equaled approximately $15.3 million and retained earnings equaled approximately $0.9 million, for total capitalization of approximately $16.2 million. As of June 30, 2003, NNECO had approximately $48.3 million invested in the NU system money pool and approximately $0.7 million in other current and accrued assets. As of June 30, 2003, NNECO's net liabilities totaled approximately $32.8 million. These net liabilities are mainly comprised of (i) approximately $20.6 million of net accrued pension costs reflecting amounts due former employees of NNECO,[1] (ii) approximately $9.2 million of other employee related costs, (iii) $1.4 million in federal income taxes due, and (iv) approximately $1.6 million of other obligations.[2]

The Applicants seek authorization for NNECO to pay dividends to and, or in the alternative, to repurchase its common stock from, NU out of paid-in-capital and unearned surplus up to $16.2 million during the Authorization Period. The Applicants state that they do not anticipate any further obligations being incurred. They further assert that the proposed transactions will not impair NNECO's ability to meet its

[1] NNECO has $48.9 million of accrued pension costs and an accumulated deferred income tax credit of $28.3 million, which is realized as NNECO makes contributions to the pension plan, leaving a net obligation of $20.6 million.

[2] Because NNECO's net accrued pension obligations are owed to the Northeast Utilities Retirement Plan and the plan owes the employees, NNECO need not continue to exist until all former employees receive their pension benefits. The plan will pay these benefits. NNECO's obligations to the plan will be paid or otherwise satisfied prior to NNECO's dissolution.

obligations nor render its assets insufficient to meet anticipated expenses or liabilities.

KeySpan Corporation, et al. (70–10123)

KeySpan Corporation (''KeySpan''), a registered holding company under the Act, and KeySpan Energy Management LLC (''KEM''),[3] an indirect, nonutility subsidiary (collectively, ''Applicants''), both located at 201 Old Country Road, Suite 300, Melville, New York 11747, have filed an application/declaration (''Application'') under sections 9(a) and 10 of the Act seeking authorization for KEM to acquire all of the issued and outstanding securities of Metro Energy LLC (''Metro Energy''), a nonaffiliated New York limited liability company (''Transaction'').

I. Parties

A. KEM

KEM is a nonutility engaged in the service, installation, and construction of power supply and HVAC systems, including burners and boilers for heating purposes. It operates and maintains power supply, heating, ventilation and air conditioning systems, including burners and boilers for heating purposes. KEM serves large commercial, industrial and institutional customers throughout the Northeast, and may become involved in the development, ownership, construction, financing, operation and maintenance of thermal energy facilities, including central steam and chilled water facilities.[4]

B. Metro Energy

Metro Energy is an unaffiliated New York limited liability company in the business of developing, operating and maintaining thermal energy systems in the New York metropolitan area. Through certain loans made to Metro Energy by KEM in the aggregate principal amount of $11,715,161.82, plus 8.38% interest per annum, KEM financed the construction of a central heating and cooling facility owned, operated, and maintained by Metro Energy at a hotel in the New York metropolitan area. This prior financing relationship between KEM and Metro Energy does not constitute a variable interest arrangement as determined under the Financial Accounting Standards Board, Interpretation No. 46 (Consolidation of Variable Interest Entities). Metro Energy's business activities involve the types of energy-related activities enumerated in rule 58(b)(1)(vi).

II. The Transaction

KEM proposes to acquire all of the issued and outstanding membership interests of Metro Energy. Upon consummation of the acquisition, Metro Energy will become a direct, wholly-owned subsidiary of KEM. KEM will acquire Metro Energy in a cash transaction for the purchase price of approximately $600,000 payable in three installments within a one year period, plus the conversion of the outstanding debt owed to KEM by Metro Energy, including principal and interest amounting to approximately $13,785,763, in goodwill. The purpose of the Transaction is to provide KEM with the benefit of revenues currently generated by Metro Energy in furtherance of KeySpan's operations as a diversified and integrated gas and electric public-utility system.

CenterPoint Energy, Inc., et al. (70–10162)

CenterPoint Energy, Inc. (''CenterPoint''), a registered holding company, located at 1111 Louisiana, Houston, Texas 77002; and Utility Holding, LLC (''Holding''), a direct, wholly-owned registered holding company subsidiary of CenterPoint located at 200 West Ninth Street Plaza, Suite 411, Wilmington, Delaware 19801 (collectively, the ''Applicants'') have filed an application/declaration (the ''Application'') under sections 6, 7, 9, 10, 12, and 13 under the Act and rules 88, 90 and 91 under the Act.

I. Prior Authorizations

By order dated July 5, 2002 (Holding Company Act Release No. 27584) (the ''July Order'') the Commission authorized the formation of CenterPoint as a new registered holding company, and the distribution to shareholders of the remaining common stock of Reliant Resources, Inc. (the ''Distribution''). The formation of CenterPoint and the Distribution were part of a plan adopted in 2000 for the restructuring of Reliant Energy, Incorporated under the requirements of the Texas electric restructuring legislation adopted in 1999. The Distribution, which was made on September 30, 2002, completed the separation from CenterPoint of the merchant power generation and energy trading and marketing business of Reliant Resources, Inc. Since CenterPoint expected to qualify for an exemption from registration under the Act within a year of the July Order, CenterPoint did not intend to form a service company following the restructuring. Instead, the July Order authorized CenterPoint to provide a variety of services to its subsidiaries on an interim basis, including accounting, rates and regulation, internal auditing, strategic planning, external relations, legal services, risk management, marketing, financial services and information systems and technology.

Since the July Order, CenterPoint has announced that it will remain a registered holding company under the Act. In its order dated June 30, 2003 (Holding Company Act Release No. 35–27692), the Commission noted that CenterPoint intended to form a service company and granted CenterPoint interim authority to continue to provide goods and services to its subsidiaries through December 31, 2003 (the ''Interim Period'').

II. Request To Form the Service Company and Provide Services

A. Summary of Requests

The Application seeks the authorization and approval by the Commission of the provision of intra-system services and goods following the expiration of the Interim Period, under section 13 of Act and the rules under the Act. Specifically, Applicants request that the Commission: (1) Approve the formation and capitalization of CenterPoint Energy Service Company, LLC (the ''ServiceCo''); (2) approve the designation of ServiceCo as a subsidiary service company in accordance with the provisions of rule 88 under the Act and find that ServiceCo is organized and will conduct its operations so as to meet the requirements of section 13 of the Act and the rules under the Act; (3) approve the master services agreement in the form attached as Exhibit B–1 to the Application (the ''Master Services Agreement''), and the form of service agreement for services rendered by system companies; and (4) authorize, to the extent not exempt under rules 81 and 87, CenterPoint and certain CenterPoint subsidiaries providing certain services and goods to associate companies.

B. Services Provided by ServiceCo

Applicants request authorizations with respect to the activities of ServiceCo, which will be formed in Texas as a limited liability company wholly-owned by Holdings, as the

[3] KEM is a wholly-owned subsidiary of KeySpan Business Solutions LLC, which is a wholly-owned subsidiary of KeySpan Services Inc. KeySpan Services is a wholly owned subsidiary of KeySpan Energy Corporation, which is a wholly-owned subsidiary of KeySpan.

[4] By Commission order dated April 24, 2003 (HCAR No. 27670) the Commission found these activities to be functionally related to KeySpan's integrated gas and electric operations and retainable.

service company for the CenterPoint system. ServiceCo will:

- Have a minimal equity capitalization of not more than 1,000 membership interests with total equity capitalization of not more than $1,000;
- Derive substantially all of its needs for additional working capital from borrowings under CenterPoint's money pool and/or additional investments by CenterPoint pursuant to rule 45 and/or rule 52, as applicable;
- Provide recipients [5] certain administrative and service functions involving system-wide coordination and strategy, compliance and oversight, including accounting, internal auditing, finance and treasury, communications, legal, human resources, executive, regulatory and governmental affairs, information systems and technology, mainframe operations, business services, and leasing services.
- Administer the CenterPoint money pool;
- Be staffed by a transfer of personnel from CenterPoint and GasCo;
- Lease office and other space currently owned by CenterPoint Energy Properties, Inc. (Properties), and from time-to-time lease other space that may be acquired by Properties either in fee or by lease. ServiceCo will enter into one or more lease agreements with Properties and, as applicable, will enter into subleases with Recipients that occupy space obtained from Properties, at cost in accordance with the Act and the applicable rules under the Act. Applicants state that none of the property proposed to be occupied, used by, or provided to ServiceCo constitute facilities used for the production, transmission, transportation, or distribution of electric energy or natural or manufactured gas;
- License, lease, sublease or enter into service arrangements with CenterPoint and T&D Utility for the use of computer hardware, software, communications facilities (including local, long distance, internet and wireless services), office equipment and furnishings, and vehicles currently owned, licensed or leased by CenterPoint or T&D Utility at cost in accordance with the Act and the applicable rules under the Act. Applicants state that none of the property proposed to be occupied, used by, or provided to ServiceCo constitutes facilities used for the production, transmission, transportation, or distribution of electric energy or natural or manufactured gas;
- Assume CenterPoint's obligation to provide transition services and facilities, including business, corporate, and information technology services to Reliant Resources, Inc., which obligations will largely terminate in early 2004;
- Assume CenterPoint's obligation to provide business, corporate, and information technology services to Texas Genco at cost in accordance with the Act and the applicable rules under the Act, until CenterPoint's investment in Texas Genco is sold, and for a brief transition period after a sale;
- Comply with the Commission's standards for accounting and cost allocation methods and procedures for service companies in registered holding company systems;
- Use the Commission's ''Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies'' for ServiceCo's billing system, as may be adjusted to use the Federal Energy Regulatory Commission's uniform system of accounts; and
- Provide all services to affiliated companies on an ''at cost'' basis as determined by rules 90 and 91 of the Act. ServiceCo will distribute all charges among Recipients, to the extent possible, based on direct assignment. Amounts remaining after direct assignment shall be allocated among Recipients in a fair and equitable manner, using the allocation methods set forth in the Master Services Agreement.

C. Services Provided by Certain Subsidiaries

1. T&D Utility and GasCo's Shared Services

Applicants request authorization for the T&D Utility and GasCo to provide the following services to each other in their overlapping service territory: meter reading, trenching operations, vehicle maintenance, line locating, call center, and credit and collections functions when the companies determine it is efficient and cost effective to do so. The companies also share common warehouse space. Some of these functions are provided by GasCo to the T&D Utility and others are provided by the T&D Utility to GasCo. In addition, the T&D Utility provides GIS mapping for GasCo and its pipeline subsidiaries, Texas Genco, and other CenterPoint system companies. When such services are provided, costs are allocated based on appropriate cost allocation measures, such as number of meters with respect to meter reading, square footage occupied and location of shared space. All of these services are provided at cost in accordance with rules 90 and 91 under the Act.

2. GasCo and GasCo's Pipeline Subsidiaries' Shared Services

Applicants request authorization for GasCo to share with GasCo's pipeline subsidiaries and GasCo's other subsidiaries certain services when the companies determine it is efficient and cost effective to do so. Services proposed to be shared are environmental services provided to GasCo by personnel from its pipeline subsidiaries, along with support for compliance with the new pipeline integrity law. In addition, GasCo's telephone operations provide some services to its pipeline subsidiary, and pipeline personnel use office and warehouse space in GasCo facilities. GasCo and its subsidiary, CenterPoint Energy Gas Transmission Company (''CEGT''), share signals from a system that electronically monitors the physical operating conditions of the distribution system, with CEGT maintaining the equipment. CEGT and GasCo also share meter testing responsibilities, with GasCo testing small pipeline meter stations and CEGT testing large distribution meters. Similarly, GasCo and CEGT share some cathodic protection from rectifiers at certain points on the system, and GasCo reads some rural and town border station meters where CEGT maintains the equipment. All of these services are provided at cost in accordance with rules 90 and 91 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[5] Applicants state that it is expected that ServiceCo will enter into service agreements with CenterPoint, CenterPoint Energy Houston Electric, LLC (the ''T&D Utility''), Texas Genco, LP (''Texas Genco''), CenterPoint Energy Resources Corp. (''GasCo'') and any other subsidiaries that request services from ServiceCo by executing a Master Services Agreement (the ''Recipients''). T&D Utility, Texas Genco and GasCo are the public-utility subsidiaries in the CenterPoint system.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48622; File No. SR–BSE–2003–18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Boston Stock Exchange, Inc. To Adopt an Anti-Money Laundering Compliance Program

October 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2003, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange amended the proposal on October 3, 2003 and October 9, 2003. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new section entitled ''Anti-Money Laundering Compliance Program'' to its Rules under Chapter II, Dealings on the Exchange. The text of the proposed rule change follows. Additions are in *italics.*

* * * * *

Chapter II

Dealings on the Exchange

Secs. 1–41, no change

Anti-Money Laundering Compliance Program

Sec. 42. Each member organization and each member not associated with a member organization shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management.

The anti-money laundering programs required by this Section shall, at a minimum:

(1) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder:

(2) Establish and implement policies and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(3) Provide for independent testing for compliance to be conducted by Participant personnel or by a qualified outside party;

(4) Designate, and identify to the Exchange (by name, title, mailing address, e-mail address, telephone number, and facsimile number) a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to the Exchange regarding any change in such designation(s); and

(5) Provide ongoing training for appropriate persons.

* * * * *

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 III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In response to the events of September 11, 2001, President Bush signed into law on October 26, 2001 the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''Patriot Act'')[3] to address terrorist threats through enhanced domestic security measures, expanded surveillance powers, increased information sharing and broadened anti-money laundering requirements. The Patriot Act amends, among other laws, the Bank Secrecy Act, as set forth in Title 31 of the United States Code.[4] Certain provisions of Title III of the Patriot Act, also known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''MLAA''), impose affirmative obligations on a broad range of financial institutions, including broker-dealers, specifically requiring the establishment of anti-money laundering monitoring and supervisory programs.

MLAA Section 352 required all financial institutions (including broker-dealers) to establish anti-money laundering programs that include, at a minimum: (i) Internal policies, procedures and controls; (ii) the specific designation of an anti-money laundering compliance officer; (iii) an ongoing employee training programs; and (iv) an independent audit function to test the anti-money laundering program.

The Commission has approved NASD's and several other exchanges' proposals to adopt rules requiring their members and member organizations to establish anti-money laundering compliance programs with the minimum standards described above.[5] Proposed BSE Section 42, entitled ''Anti-Money Laundering Compliance Program'' of Chapter II, Dealings on the Exchange, of the Rules of the Board of Governors of the Boston Stock Exchange, Inc. involves similar requirements. Adoption of the proposed rule would establish a regulatory framework for members and member organizations to comply with the requirements of the Patriot Act in this area.

2. Statutory Basis

The Exchange believes that the statutory basis for the proposed rule change is section 6(b)(5) of the Act,[6] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and is not designed to permit unfair

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107–56, 115 Stat. 272 (2001).

[4] 31 U.S.C. 5311, *et seq.*

[5] *See, e.g.*, Securities Exchange Act Release No. 45798 (April 22, 2002), 67 FR 20854 (April 26, 2002) (Order approving SR–NASD–2002–24 and SR-NYSE–2002–10).

[6] 15 U.S.C. 78f(b)(5).

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, and amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–2003–18 and should be submitted by November 7, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[7] which, among other things, requires that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, and, in general, protect investors and the public interest.

The Commission believes that the Exchange's proposal to adopt an Anti-Money Laundering Compliance Program accurately, reasonably, and efficiently implements the requirements of the Patriot Act as it applies to their members. The Commission also recognizes that anti-money laundering compliance programs will evolve over time, and that improvements to these programs are inevitable as members find new ways to combat money laundering and to detect suspicious activities.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that the Rule is substantially similar to anti-money laundering compliance program rules that the Commission has previously approved for other self-regulatory organizations.[8] Accordingly, the Commission believes that there is good cause, consistent with Section 19(b) of the Act,[9] to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change, as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] *See* Securities Exchange Act Release Nos. 45798 (April 22, 2002), 67 FR 20854 (April 26, 2002) (Order approving SR–NASD–2002–24 and SR–NYSE–2002–10); 46041 (June 6, 2002), 67 FR 40366 (June 12, 2002) (Order Approving SR–Phlx–2002–29); 46258 (July 25, 2002), 67 FR 49715 (July 31, 2002) (Order Approving SR–Amex–2002–52); 446462 (September 5, 2002), 67 FR 58665 (September 17, 2002) (Notice of Filing and Order Granting Accelerated Approval of SR–CBOE–2002–45); 46468 (September 6, 2002), 67 FR 58095 (September 13, 2002) (Notice of Filing and Immediate Effectiveness of SR–PCX–2002–44); and 46739 (October 29, 2002), 67 FR 67432 (November 5, 2002) (Notice of Filing and Immediate Effectiveness of SR–NASD–2002–146).

[9] 15 U.S.C. 78f(b)(5) and 78s(b).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48623; File No. SR–CBOE–2003–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated To Make Changes to Its Fee Schedule Involving the Exchange's Hybrid Trading System and Retail Automatic Execution System Orders

October 10, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 1, 2003, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On October 7, 2003, the CBOE filed an amendment to the proposed rule change. 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 CBOE proposes to make four changes to its Fee Schedule. The first three changes involve fees connected to the Exchange's Hybrid trading system. The fourth change involves the access fee for Retail Automatic Execution System (''RAES'') orders. The text of the proposed rule change, as amended, to the fee schedule is available at the Office of the Secretary, the CBOE, and at the Commission.

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 CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended, 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 CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make several changes to its Fee Schedule involving Hybrid and RAES fees.

Actant Infrastructure User Charge

The Exchange is providing certain hardware and related maintenance needed by Actant, a third party vendor that is providing quoting software and a connection to the CBOEdirect system that many CBOE members are using to stream quotes to the Hybrid trading system. The Exchange provided the hardware and maintenance in order to facilitate Actant's service of Exchange members; however, the Exchange wishes to recover its costs in doing so. As a result, beginning on October 1, 2003, all users of Actant software for the Hybrid system will incur a $100 per month Exchange user fee. The Exchange states that this fee will offset the cost of the hardware and ongoing maintenance that the Exchange is incurring in order to facilitate Actant's service.

Market Data User Fee

The Exchange states that numerous Exchange members making markets on the CBOE's trading floor in the Hybrid trading system make use of data feeds of underlying market information that are provided by the CBOE through its TickerXpress service (''TX''). The Exchange proposes to charge a fee of $100 per month to members receiving TX market data to compensate the CBOE for providing the infrastructure to make this market data available. Alternatively, members may receive TX market data from the Exchange that has been enhanced by the data processing services of a third party service provider to the Exchange. The Exchange proposes to charge a fee of $200 per month to members receiving the enhanced TX data to compensate the CBOE for providing the infrastructure to make this market data available. The Exchange proposes to waive these TX fees through the end of 2003 and to make them effective on January 1, 2004.

CBOEdirect Connectivity Fee Waiver

Currently, the Exchange charges monthly connection fees for users of its CBOEdirect electronic trading platform of $900 per month for each connection to CBOEdirect through the CBOE Market Interface (CMi) and $600 for a connection through the FIX (Financial Information Exchange) interface. The Exchange states that these fees help the CBOE begin to recover its substantial investment in CBOEdirect.

However, as the Exchange expands its rollout of the Hybrid trading system, which also uses CBOEdirect, the Exchange proposes to waive the CBOEdirect connectivity fees for all connections to CBOEdirect for the purpose of using the CBOE's Hybrid system effective October 1, 2003. The Exchange believes that this wavier will encourage members to begin using Hybrid, and help offset the related costs that members must incur in order to stream quotes for Hybrid.

The Exchange will review the subject of this waiver again when it conducts next year's budget review of fees.

RAES Access Fee Waiver for Non-Customer Equity Orders Submitted From the Trading Floor

Currently, the Exchange charges a $.30 per contract access fee for all Non-Customer orders (*i.e.,* those with an origin code other than ''C'') entered into RAES.[3] The Exchange proposes to waive this fee, effective October 1, 2003, in cases where a RAES order in an equity option class is entered from the Exchange trading floor. In such cases, a floor broker, who assumes responsibility for filling such an order in exchange for a floor brokerage fee, may have come to believe that his/her customer will receive a better ''fill'' electronically through RAES. However, the Exchange believes that imposing the RAES access fee burdens such orders with what is tantamount to a second execution fee (in addition to the floor broker's fee). The Exchange does not believe that it should place such an additional burden on the best execution of such orders. For this reason, the Exchange believes it is fair and equitable to waive the fee in such circumstances.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(4) of the Act[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among the CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

The proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2)[7] thereunder because it establishes or changes a due, fee, or other charge imposed by the CBOE. At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 CBOE. All submissions should refer to File No. SR–CBOE–2003–43 and should be submitted by November 7, 2003.

[3] See Securities Exchange Act Release No. 48223 (July 24, 2003), 68 FR 44978 (July 31, 2003).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on October 7, 2003, the date on which the Exchange filed Amendment No. 1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–26285 Filed 10–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48615; File No. SR–EMCC–2003–05]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Return of Clearing Fund Deposits

October 9, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 29, 2003, Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of changes to EMCC's rules relating to the return of clearing fund deposits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In File No. SR–EMCC–2003–02, EMCC sought Commission approval (1) to establish a fixed clearing fund requirement for inter-dealer brokers (''IDBs'') or members who clear for IDBs and (2) to have the difference between an IDB's calculated clearing fund requirement and the fixed amount be paid by other members on a pro rata basis. As part of that filing, EMCC also sought Commission approval to eliminate the ''look back'' feature from its clearing fund formula. EMCC expected that the elimination of the look back feature would offset its non-IDB members' obligation to deposit additional clearing fund to cover the difference between the IDB's calculated clearing fund requirement and the fixed amount. On August 19, 2003, the Commission approved the proposed rule change.[3]

In connection with its members' depositing additional clearing fund to cover the difference between the IDB's calculated clearing fund requirement and the fixed amount, EMCC had planned on allowing its members to receive upon request the return of excess clearing fund deposits on a daily basis instead of on a monthly basis. The appropriate change to EMCC's rules to accomplish the daily return of excess clearing fund deposits was inadvertently omitted from that filing. Accordingly, the purpose of this filing is to modify EMCC Rule to provide for a daily return upon request of excess clearing fund deposits and to provide that EMCC will begin honoring such requests concurrent with the implementation of the changes covered by File No. SR–EMCC–2003–02.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to EMCC because it will permit the equitable allocation of charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have any impact on or impose a 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 relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[4] Approval of File No. SR–EMCC–2003–02 resulted in a more accurate clearing fund calculation and a more timely collection of members' required clearing fund deposits. It also resulted in EMCC's members having to pay the difference between the calculated clearing fund requirement and the fixed clearing fund amount for each IDB or member who clears for IDBs. Under EMCC's existing rule, if a member had on deposit clearing fund in excess of its required deposit, the excess could be returned to the member no more frequently than once a month. By providing that members are entitled to have their excess clearing fund deposits returned to them upon request on a daily basis, the proposed rule change allows EMCC to implement the changes in File No. SR–EMCC–2003–02 in a way that accommodates the needs of EMCC's members while not affecting EMCC's ability to safeguard securities and funds which are in its custody or control or for which it is responsible.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice because accelerated approval will facilitate the implementation of File No. SR–EMCC–2003–02 which the Commission previously determined met the requirements of Section 17A(b)(3)(F) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 48366, 68 FR 51311 (August 26, 2003).

[4] 15 U.S.C. 78q–1(b)(3)(F).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–EMCC–2003–05. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of EMCC. All submissions should refer to the File No. SR–EMCC–2003–05 and should be submitted by November 7, 2003.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–2003–05) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–26256 Filed 10–16–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48619; File No. SR–NASD–2003–137]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 thereto by the National Association of Securities Dealers, Inc. To Extend a Pilot Relating to the Issuance of Market Participant Identifiers

October 9, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 28, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On September 29, 2003, Nasdaq amended the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to extend retroactively to September 1, 2003, and prospectively to March 1, 2004, a pilot program that enables members that are registered as market makers or electronic communications networks (''ECNs'') to request and receive a second market participant identifier (''MMID'') with which to enter a second Attributable Quote/Order in the Nasdaq Quotation Montage.[4] The text of the proposed rule change is set forth below. Proposed deletions are in [brackets]; proposed new language is in *italics*.

* * * * *

4613.Character of Quotations

(a) Quotation Requirements and Obligations

(1) No Change.

(2) For a [two] *six*-month pilot period *beginning September 1, 2003*, market makers and ECNs may request the use of a second MMID. A market maker may request the use of a second MMID for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage for any security in which it is registered and meets the obligations set forth in subparagraph (1) of this rule. An ECN may request the use of a second MMID for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage for any security in which it meets the obligations set forth in Rule 4623. A market maker or ECN that ceases to meet the obligations appurtenant to its first MMID in any security shall not be permitted to use the second MMID for any purpose in that security.

(3) No Change.

(b)–(e) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change, as amended, 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 III below. Nasdaq 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

An NASD member that registers as a market maker or ECN is permitted to enter one two-sided quotation per security in the Nasdaq Quotation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated September 29, 2003 (''Amendment No. 1''). Amendment No. 1 replaces the proposed rule change in its entirety. In Amendment No. 1, Nasdaq corrected a statement in its initial proposal regarding the use of second MMIDs by market participants. Because Amendment No. 1 was filed after the pilot program had lapsed, Amendment No. 1 also revised the proposed rule change to convert it from a filing pursuant to Rule 19(b)(3)(A) under the Act to a filing pursuant to Rule 19(b)(2) under the Act, with a request for retroactive effectiveness.

[4] Nasdaq originally filed the proposed rule change on August 28, 2003, designating it as a non-controversial proposed rule change suitable for immediate effectiveness pursuant to Section 19(b)(3) of the Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A); 17 CFR 240.19b–4(f)(6). On September 29, 2003, Nasdaq submitted Amendment No. 1, which replaces the original proposed rule change in its entirety, and requested that the proposed rule change be approved retroactive to September 1, 2003.

Montage, and is assigned a unique MMID with which to enter such quotations. The NASD 4600 Rule Series governs the character of such quotations and the rights and obligations of members that display quotations in the Nasdaq Quotation Montage via their MMIDs. The NASD Rule 4700 Series sets forth the rights and obligations of members that participate in the Nasdaq National Market Execution System (''SuperMontage''), including the entry of quotes and orders and the display of quotations. Numerous other NASD and Commission rules govern the conduct of members in their use of MMIDs to enter and execute orders and display quotes, including, for example, NASD IM–2110–2 (the ''Manning Interpretation''), NASD Rule 6950 (the ''Order Audit Trail System''), and NASD Rule 2320 (the ''Best Execution'' rule).

Effective July 1, 2003, Nasdaq amended NASD Rule 4613(a) for a two-month pilot period to permit market makers and ECNs to request the use of a second MMID for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage (the ''Pilot'').[5] Under the Pilot, a market maker may request the use of a second MMID for displaying Attributable Quotes/Orders in any security in which it is registered and meets the obligations set forth in NASD Rule 4613(a)(1), including the maintenance of a continuous two-sided quotation. The Pilot also provides that an ECN may request the use of a second MMID for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage for any security in which it meets the obligations set forth in NASD Rule 4623.

Through this rule filing, Nasdaq is proposing to extend the Pilot retroactively to September 1, 2003, and prospectively to March 1, 2004. Since the Pilot began, Nasdaq has granted two market makers' applications for second MMIDs for displaying additional Attributable Quotes/Orders. As of the date of this filing, Nasdaq represents that neither market maker has begun displaying additional Attributable Quotes/Orders under the Pilot. In addition, three ECNs are authorized to use second MMIDs for displaying additional Attributable Quotes/Orders in SuperMontage. Nasdaq represents that those ECNs were authorized to use second MMIDs prior to the launch of the Pilot. However, Nasdaq believes that their continued use of the second MMIDs is subsumed within the later-filed Pilot. According to Nasdaq, two of those three ECNs are currently using second MMIDs for displaying additional Attributable Quotes/Orders in SuperMontage.

Nasdaq believes the Pilot, though not yet widely used by NASD members, will prove to be an important step in the evolution of its marketplace. Nasdaq represents that trading of Nasdaq securities has changed rapidly and dramatically due to increasingly sophisticated routing and linkage systems that are available to public investors, institutions, broker/dealers and vendors. Nasdaq believes that the ability to enter quotes and orders and to display quotations under a second MMID would help it keep pace with recent changes and allow it to offer functionality that market participants already find elsewhere today. Nasdaq believes that the Pilot should also improve the quality of executions within Nasdaq by enabling members to contribute more liquidity to the market and add to the transparency of trading interest. Due to the surveillance procedures described below, Nasdaq believes that the Pilot should also improve the regulation of trading in Nasdaq securities to the extent members consolidate more of their trading activity in Nasdaq.

Nasdaq believes that it is essential to maintain its regulation of trading on Nasdaq at the same high level of compliance with NASD and Commission rules that it believes it has achieved to date. Except as noted in the proposed rule, members that use a second MMID would be required to comply with all NASD and Commission rules applicable to their current use of a single MMID. Members would be prohibited from using a second MMID to accomplish indirectly what they are prohibited from doing directly through a single MMID. For example, members would not be permitted to use a second MMID to avoid their Manning obligations under NASD IM–2110–2, best execution obligations under NASD Rule 2320, or their obligations under the Commission's Order Handling Rules. Members would be required to continue to comply with the firm quote rule, the OATS rules, and the Commission order routing and execution quality disclosure rules. In addition, NASD Rule 4613(a) specifically prohibits firms from displaying a second Attributable Quote/Order to engage in passive market making or to enter stabilizing bids because this could violate NASD Rules 4614 and 4619 and Regulation M under the Act. To the extent that the allocation of second MMIDs were to create regulatory confusion or ambiguity, every inference would be drawn against the use of a second MMID in a manner that would diminish the quality or rigor of the regulation of the Nasdaq market.

Nasdaq represents that it, in conjunction with NASD, has developed procedures to maintain a high level of surveillance and member compliance with its rules with respect to members' use of both Primary and Secondary MMIDs to display quotations in Nasdaq systems. Nasdaq and NASD have implemented a review process to ensure that firms utilizing second MMIDs under the Pilot do so in accordance with the terms under which use of the second MMID was granted.

Further, Nasdaq represents that new, fully automated surveillance technology has been developed to enable NASD systems to analyze trading and generate alerts at the firm level (*i.e.*, aggregating activity across all MMIDs for a firm into one primary MMID) or the individual MMID level (*i.e.*, treating each MMID separately), depending on the particular surveillance requirements. Nasdaq believes that the use of firm-level information is essential to detecting market participants that may exceed certain surveillance thresholds at the firm level, but would otherwise go undetected at the individual MMID level. Further, Nasdaq believes that the ability to aggregate data and analyze data at the firm level is critical to identifying instances where a firm is using different MMIDs to engage in conduct such as marking-the-close and trading ahead, among other things.[6] Conversely, Nasdaq believes that the use of specific MMID information is critical for the surveillance of individual quotes, trades and orders for compliance with firm quote obligations, among other things.

If it were to be determined that a Secondary MMID issued under the Pilot was being used improperly, Nasdaq would withdraw its grant of the Secondary MMID for all purposes for all securities. In addition, if a market maker or ECN were to no longer fulfill the conditions appurtenant to its Primary MMID (*e.g.*, by being placed into an unexcused withdrawal), it would not be permitted to use the Secondary MMID for any purpose in that security.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the Act, including section 15A(b)(6) of the Act,[7] which requires,

[5] For a more detailed explanation of the Pilot, *see* Securities Exchange Act Release No. 47954 (May 30, 2003), 68 FR 34017 (June 6, 2003) (File No. SR–NASD–2003–87).

[6] Nasdaq represents that it has had no occasion to withdraw the grant of a Secondary MMID due to improper usage under the Pilot.

[7] 15 U.S.C. 78*o*–3(b)(6).

among other things, that a registered national securities association's rules must be designed to promote just and equitable principles of trades, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes that the proposed rule change, as amended, is consistent with these requirements because it would facilitate transactions in securities, remove impediments to a free and open market, and protect investors by improving the transparency and efficiency of transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–137 and should be submitted by November 7, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8] In particular, the Commission finds that the proposed rule change is consistent with section 15A(b)(6) of the Act, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[9]

The Commission believes that an extension of the Pilot for an additional six months, retroactive to September 1, 2003, may allow market participants more time to utilize the Pilot. The Commission believes that the continued Pilot may benefit investors by increasing transparency and liquidity of trading interest in SuperMontage. The Commission also believes that the extension of the Pilot should enable Nasdaq to further evaluate the Pilot.

The Commission notes that Nasdaq has represented that it, in conjunction with NASD, has developed procedures to maintain surveillance and member compliance with NASD and Commission rules. Furthermore, the Commission notes that Nasdaq represents that a firm's Secondary MMID would be withdrawn for all purposes and for all securities if it were to be determined that the firm was using the Secondary MMID improperly.

Nasdaq has requested that the Commission find good cause for approving the proposed rule change and Amendment No. 1 thereto prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval to extend the Pilot for an additional six months, and making such extension retroactive to September 1, 2003, will allow Nasdaq to continue, without interruption, the existing operation of the Pilot. Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,[10] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–2003–137), and Amendment No. 1 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–26257 Filed 10–16–03; 8:45 am]

BILLING CODE 8010–01–P

[8] In approving this proposal, as amended, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78o-3(b)(6).

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48614; File Nos. SR–NSCC–2003–19 and SR–DTC–2003–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; The Depository Trust Company; Notice of Filing of Proposed Rule Changes Relating to the Consolidation of Settlement Processing Operations and to the Use of the Federal Reserve Banks' Net Settlement Service

October 9, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 26, 2003, the National Securities Clearing Corporation (''NSCC'') and The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes (File Nos. SR-NSCC–2003–19 and SR-DTC–2003–11). The proposed rule changes are described in Items I, II, and III below, which items have been prepared primarily by NSCC and DTC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The NSCC proposed rule change proposes that NSCC require all its settling banks to use the Federal Reserve

[1] 15 U.S.C. 78s(b)(1).

Banks' (''FRBs'') Net Settlement Service (''NSS'') to satisfy their end-of-day settlement obligations.[2] The NSCC and DTC proposed rule changes propose that NSCC and DTC consolidate their settlement processing operations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, NSCC and DTC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. NSCC and DTC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Consolidated Settlement Processing Operation

Currently, DTC and NSCC settlements are run on two separate systems each of which is fed throughout the day with debit and credit data generated by participant/member activities. At the end of the processing day, the data is summarized and reported by product category (*e.g.*, in the case of NSCC, continuous net settlement, mutual funds, envelope services, *etc.* and in the case of DTC, delivery orders, stock loans, dividends, redemptions, *etc.*) on the Participant Terminal System (''PTS'') via separate DTC and NSCC screens. The data is netted separately at DTC and at NSCC to produce an aggregate debit or credit at each clearing agency.

Following the determination of final net numbers for each participant/member for each clearing agency, a participant/member's credit balance at one clearing agency is netted against any debit balance at the other (''cross-endorsement''). The settling banks subsequently authorize settlement for their participant customers in an ''acknowledgement'' process and then transmit or receive funds to or from DTC's account and to or from NSCC subaccount at the Federal Reserve Bank of New York (''FRBNY'').

In order to promote operating efficiencies, improve risk management, and lower transaction processing costs, DTC and NSCC are seeking to introduce a consolidated settlement processing operation. A consolidated settlement processing operation will provide participants/members with consolidated NSCC and DTC settlement reporting, a single point of access for both NSCC and DTC settlement information, and reduced settlement risk. This consolidation is intended to be operational only. It is not intended to affect the legal relationship that participants/members and their settling banks have with NSCC or DTC.

The new consolidated settlement processing operation will provide DTC and NSCC participants/members and their settling banks with a single set of enhanced PTS functions. Each participant/member will be able to view its DTC and NSCC settlement activity and will be provided a consolidated end-of-day netted DTC/NSCC settlement obligation. A participant/member's debits and credits at DTC and at NSCC will be separately summarized in one consolidated activity statement which will show the final DTC and NSCC balances and the netted amount for each participant/member.

2. Net Settlement Service

To reduce settlement risk and to permit settling banks to settle their net-net debits at NSCC and at DTC with a single payment, NSCC is amending its procedures to require that NSCC settling banks satisfy their daily net-net debit balances at NSCC through the use of NSS.

The change being sought is consistent with DTC's requirement that its settling banks utilize NSS.[4]

As more fully described below, NSS will permit DTC, as NSCC's settlement agent, to submit instructions to have the FRB accounts of the NSCC settling banks charged for their NSCC net-net debit balance. By centralizing DTC and NSCC's settlement processing and by adopting NSS as the payment mechanism, each settling bank's balance at NSCC (whether a net-net debit or a net-net credit) will also be aggregated or netted with its settlement balance at DTC resulting in only a single debit or single credit having to be made to the settling bank's FRB account. Utilization of NSS by NSCC members and their settling banks will eliminate the need for a settling bank to initiate a wire transfer in satisfaction of a net-net debit balance, which should reduce the risk a settling bank may incur a late payment fee due to a delay in wiring settlement funds and will permit the aggregation or netting of such amounts with its DTC balance.[5]

NSCC is proposing certain technical corrections to assure that defined terms and other provisions are used consistently. Accordingly, NSCC's Rule 1 (Definitions and Descriptions) is being amended to (1) include a new definition of ''Settlement Agent'' as DTC will act as NSCC's settlement agent in collecting and paying out settlement monies and (2) set forth the definition for ''Net Credit Balance'' which is currently used in Rule 12 (Settlement) and elsewhere in the Rules.

NSCC Rule 12 and Rule 55 (Settling Banks) are being amended to make clear that in those instances where NSCC permits a Settling Member, Insurance Carrier Member, or Fund Member to settle other than through a settling bank, it will be deemed to have failed to settle if it fails to pay its Net Debit Balance.[6] In addition, rule language is being modified to make clear that settlement of monies will be effected in the manner provided for in NSCC's Procedures.

NSCC Procedure VIII (Money Settlement Service) is being amended to reflect the requirement that settling banks use NSS and to provide the procedures whereby settling banks that act as such for both NSCC and DTC (''common settling banks'') will have their settlement balances at both clearing agencies aggregated or netted into a single payment or credit amount.

Prior to using NSS, settling banks will be required to sign a Settler Agreement with an FRB which incorporates a requirement that the settling bank agrees to the terms of the FRB's Operating Circular No. 12. Under Section 6.4 of Operating Circular No. 12, the settlement agent (*i.e.*, DTC acts as settlement agent for NSCC) has certain responsibilities regarding allocation among settling banks of a claim for indemnity by the FRB. The allocation of any such claim among NSCC's members will be as described in NSCC Procedure VIII, Section 4(iv). The signed Settler Agreement must be on the settling bank's letterhead, signed by an authorized signer recognized by the FRB, and submitted to the FRB through DTC as NSCC's settlement agent.

[2] On September 2, 2003, DTC implemented the requirement that all DTC settling banks use NSS. Securities Exchange Act Release No. 48089 (June 25, 2003), 68 FR 40314 (July 7, 2003) [File No. SR-DTC–2002–06].

[3] The Commission has modified the text of the summaries prepared by NSCC and DTC.

[4] *Supra* note 2.

[5] Should NSS not be available for any reason, then Settling Banks will be obligated to settle their NSCC and DTC obligations by wire transfer.

[6] Net Debit Balance for a business day as used with respect to a Member, Insurance Carrier Member, or Fund Member means the amount by which the Member's, Insurance Carrier Member, or Fund Member's gross debit balance for such business day exceeds its gross credit balance on such business day.

Settling banks that also act as settling banks for DTC participants have to sign a Settler Agreement with the FRB designating DTC as their NSS settlement agent. Accordingly, these settling banks will not be required to sign new Settler Agreements to cover NSCC's NSS settlement. Instead, as provided in NSCC Procedure VIII, the Settler Agreements they provide to DTC for delivery to the FRB designating DTC as their NSS settlement agent will, upon the approval and effectiveness of NSCC's proposed rule change, be deemed to include the settling bank's NSCC settlement obligations as well as its DTC settlement obligations.

As is currently required, each settling bank will be required to acknowledge its NSCC net-net balance at the end of the day. However, any settling bank that is a Member and settles solely for its own account may elect to not acknowledge its net-net settlement balance at the end of the day.[7] This option will not be made available to settling banks that settle for others because the acknowledgement process includes the option to refuse to pay for a participant for whom the settling bank provides settlement services. Unless a settling bank has elected not to acknowledge its net-net settlement balance as provided above, DTC will not send a settling bank's net-net debit balance to a FRB for collection until the settling bank has acknowledged its balance.

As NSCC's settlement agent, DTC will send a ''preadvice'' to each settling bank, notifying the settling bank that DTC is about to send its NSS transmission to the FRB. If a settling bank does not have sufficient funds in its FRB account to enable DTC, as settlement agent, to debit the full amount of its settlement balance or should NSS not be available to a settling bank for any reason, the settling bank will be obligated to wire all such amounts to DTC prior to the designated cut-off time.[8]

A new item 4 in NSCC Procedure VIII sets forth the netting and payment obligations among common settling banks, NSCC, and DTC. For each common settling bank, DTC, as settlement agent, will aggregate or net the net-net debit or net-net credit as applicable due by or due to such bank from or to NSCC and DTC. If the common settling bank owes a settlement debit to both clearing agencies, DTC will debit the FRB account the sum of the debit amounts. If the bank is owed a settlement credit from both, DTC will wire the bank the sum of the credit amounts.

Where the common settling bank owes a debit to one clearing agency and is owed a credit from the other, the common settling bank will be obligated to pay the net amount of that sum (if a net debit) or be entitled to receive the net amount (if a net credit). The clearing agency which prenet owes the settlement credit to the common settling bank will pay the net credit difference to the other clearing agency if the other clearing agency has a prenet debit.[9] NSCC will implement its failure to settle procedures if any common settling bank that had a net-net debit to NSCC before aggregation or netting of such amounts with the common settling bank's DTC settlement balance fails to pay its aggregate NSCC/DTC net debit amount, referred to as the ''consolidated settlement debit amount,'' in full by the time specified in NSCC and DTC's procedures.

NSCC and DTC believe that the proposed rule changes are consistent with the requirements of section 17A of the Act[10] and the rules and regulations thereunder applicable to NSCC and DTC because they are designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agencies or for which they are responsible by reducing the risk that the completion of settlement will be delayed because a settling bank is late or is unable to wire funds to DTC or NSCC in settlement of its obligations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC and DTC do not believe that the proposed rule changes will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

NSCC and DTC have discussed this proposal with various participants and industry groups, a number of whom have worked closely with NSCC and DTC in developing the proposed consolidated settlement system. NSCC and DTC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within thirty-five 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 ninety 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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File Nos. SR–NSCC–2003–19 and SR–DTC–2003–11. These file numbers should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of NSCC and DTC.

All submissions should refer to File Nos. SR–NSCC–2003–19 and SR–DTC–2003–11 and should be submitted by November 3, 2003.

[7] Settling banks electing not to acknowledge their settlement balance will be required to sign an Acknowledgement Option Form. A common settling bank may not elect to opt out of acknowledging its balances unless it settles solely for its own account at both DTC and NSCC in which case that election will cover both the bank's NSCC and DTC net settlement balances.

[8] If a settling bank is experiencing extenuating circumstances and as a result needs to opt out of NSS for one business day and send its wire directly to DTC's FRBNY account for its debit balance, that settling bank must notify NSCC/DTC prior to acknowledging its settlement balance.

[9] For example, if NSCC owes the common settling bank $5 million, and DTC is owed $2 million by the common settling bank, NSCC will pay DTC $3 million dollars which DTC will pay to the common settling bank using NSS.

[10] 15 U.S.C. 78q–1.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–26258 Filed 10–16–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3545]

State of North Carolina; Amendment #3

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective October 8, 2003, the above numbered declaration is hereby amended to include Bladen, Columbus, Cumberland, Davidson, Duplin, Durham, Harnett, Johnston, Robeson, Sampson and Wake Counties as disaster areas due to damages caused by Hurricane Isabel occurring on September 18, 2003 and continuing through September 26, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Chatham, Davie, Forsyth, Guilford, Hoke, Lee, Montgomery, Moore, Randolph, Rowan, Scotland and Stanly in the State of North Carolina; and Dillon and Marlboro Counties is the State of South Carolina may be filed until the specified date at the previously designated location. 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 November 17, 2003, and for economic injury the deadline is June 18, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 9, 2003.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 03–26287 Filed 10–16–03; 8:45 am]

BILLING CODE 8025–01–P

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4282]

Notice of Meeting; United States International Telecommunication Advisory Committee; Information Meeting on the World Summit on the Information Society and the U.S. Preparatory Process

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the World Summit on the Information Society (WSIS), which will take place in December 2003, including U.S. preparations for the WSIS. The meeting will take place on November 6, 2003 from 10:30 a.m. to 12 p.m. at the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St., NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647–7407 or e-mail to *worsleydm@state.gov* not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at (202) 647–2592 or email to *worsleydm@state.gov.*

Dated: October 7, 2003.

Anne Jillson,

Foreign Affairs Officer, Department of State.

[FR Doc. 03–26301 Filed 10–16–03; 8:45 am]

BILLING CODE 4710–07–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–58]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 6, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X–XXXXX] by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590-001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building,400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 10, 2003.

Richard D. McCurdy,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2003–16105.

Petitioner: Venture Travel, LLC d.b.a. Taquan Air.

Section of 14 CFR Affected: 14 CFR 135.203(a)(1).

Description of Relief Sought: To permit Venture Travel, LLC d.b.a. Taquan Air to operate under visual flight rules outside controlled airspace over water at an altitude below 500 feet.

[FR Doc. 03–26226 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–59]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 27, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X–XXXXX] by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 10, 2003.

Richard D. McCurdy,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2003–15161.

Petitioner: Saudi Arabian Oil Company.

Section of 14 CFR Affected: 14 CFR 61.72(a)(2).

Description of Relief Sought: To permit Saudi Arabian Oil Company pilots who hold foreign pilot licenses to obtain special purpose pilot authorizations to operate civil aircraft of U.S. registry leased to Saudi Arabian Oil Company for a purpose other than carrying persons or property for compensation or hire.

[FR Doc. 03–26227 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–61]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 6, 2003.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–16037 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Annette Kovite (425–227–1262), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or Caren Centorelli (202–267–8199), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 14, 2003.

Richard D. McCurdy,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2003–16037.

Petitioner: Custom Air Transport.

Section of 14 CFR Affected: 14 CFR 25.855(a), 25.857(e) and 25.1447(c)(1).

Description of Relief Sought: To allow the carriage of up to 12 livestock attendants or grooms on the main deck of Boeing 727–200 all-cargo airplanes.

[FR Doc. 03–26308 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–60]

Petitions for Exemption, Disposition of Petition Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of disposition of prior petition.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the disposition of a certain petition previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Caren Centorelli, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Tel. (202) 267–8199.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 14, 2003.

Richard D. McCurdy,

Acting Assistant Chief Counsel for Regulations.

Disposition of Petition

Docket No.: FAA–2002–12918.

Petitioner: Asia Pacific Airlines.

Section of 14 CFR Affected: 14 CFR 25.785(j), 25.813(b), 25.857(e) and 25.1447(c)(1).

Description of Relief Sought/ Disposition: To allow carriage of two supernumeraries with the flight deck door closed during taxi, takeoff and landing and exits in the Class E compartment designated for supernumerary use in lieu of the right flight deck window exit.

Partial Grant, 09/10/2003, Exemption No. 8136.

[FR Doc. 03–26309 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on October 28–30, 2003 from 9 a.m. to 4:30 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 (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 meeting. The agenda will include:

- October 28:
  - Working Groups 1 through 4 meet all day
- October 29:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve Previous Common Plenary Summary, Review Open Action Items)
  - Review and update of EUROCAE WG58 Activities
  - Report and Update on Plans for IATA SPSG#9 Activities
  - Summary Scoping and Plan for SC–202 Phase 1 Deliverables
  - Review Working Group (WG) Progress and Identify Issues for Resolution (will continue into second day as required)
  - Working Group 1 (PEDs characterization, test, and evaluation)
  - Overview of SC–202 Phase 1 report materials completed in draft form
  - Preliminary or summary list of devices type/categorizations
  - Grouped by frequencies used, modulation type, power, etc.
  - Prioritized device categories for Phase 1 document
  - Equipment needs or other support required
  - Working Group 2 (Aircraft test and analysis)
  - Overview of SC–202 Phase 1 report materials completed in draft form
  - Current state of planning for aircraft test
  - What has to be determined to be already existing and useable data
  - Needs for airplane availability
  - What needs to be done for Phase 1 documentation
  - Equipment needs or other support required
- October 30:
  - Continue Plenary Session
  - Review of Working Group (WG) Progress and Identify Issues for Resolution
  - Working Group 3 (Aircraft systems susceptibility)
  - Overview of SC–202 Phase 1 report materials completed in draft form
  - Definition of systems susceptibility presentation format
  - Prioritized list of on-aircraft systems to identify ''most critical'' victim systems
  - Summary of timeframe for data availability
  - Testing requirements identified, plan for initial susceptibility testing
  - What remains to be done for Phase 1 documentation
  - Working Group 4 (Risk assessment, practical application, and final documentation)
  - Overview of SC–202 Phase 1 report materials completed in draft form
  - First cut or current plan for what guidance, and identify where the gaps are that should be addressed in SC–202 report
  - Final requests for data from other WGs (what data is needed first)
  - What needs to be done for Phase 1 documentation
  - Issues identified for resolution by several Working Groups
  - How to address the intermodulation issue
  - How to address the multiple-PED issue
  - Assignment/Review of Future Work
  - Closing Session (Other Business, 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 October 3, 2003.

Robert Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 03–26230 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 197: Rechargeable and Starting Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 197 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 197: Rechargeable and Starting Batteries.

DATES: The meeting will be held October 21–23, 2003, starting at 9 a.m.

ADDRESSES: The meeting will be held at the Wyndham Riverfront Hotel, 701 Convention Center Blvd., New Orleans, LA 70130.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 197 meeting. The agenda will include:

- October 21:
  - Opening Session (Welcome and Introductory Remarks, Review of Agenda, Approve Summary Meeting #4)
  - Review of Submitted comments
  - Review SC–197 MOPS Draft, RTCA Paper No. 174–03/SC–197–011
- October 22:
  - Continuation of Review of SC–197 MOPS Draft
- October 23:
  - Proposed Schedule for Subsequent Meetings
  - Other Business
  - Closing Session (Establish Agenda for Next Meeting, Date and Place of Next Meeting)
  - Meeting for Advanced Technologies (IEC)

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.

Dated: Issued in Washington, DC, on September 24, 2003.

Bob Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 03–26231 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Change Notice for RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held October 28, 2003, starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The revised agenda will include:

- October 28:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Publication Consideration/Approval:
  - Final Draft, Revised DO–236A—*Minimum Aviation System Performance Standards: Required Navigation Performance for Area Navigation, TRCA Paper No. 166–03/PMC–290, prepared by SC–181.*
  - Final Draft, Revised DO–283—*Minimum Operational Performance Standards for Required Navigation Performance for Area Navigation, RTCA Paper No. 167–03/PMC–291, prepared by SC–181.*
  - Final Draft, Revised DO–271A—*Minimum Operational Performance Standards for Aircraft VDL Mode 3 Transceiver Operating in the Frequency Range 117.975–137.000 MHz, RTCA Paper No. 181–03/PMC–293, prepared by SC–172.*
  - Final Draft, *Next Generation Air/Ground Communication System (NEXCOM) Implementation Considerations: Factors to be Considered in Planning for Transition to VDL Mode 3 Integrated Voice and Data Communications in the National Airspace System, RTCA Paper No. 188–03/PMC–295, prepared by SC–198.*
- Discussion:
  - Special Committee 186, ADS–B
  - Discuss Display Integration of ADS–B and TCAS
  - Special Committee 193
  - Update Terms of Reference
  - Special Committee 196
  - Review/Status of Training Guidance Document
  - Special Committee Chairman's Reports
- Action Item Review:
  - Review/Status—All open action items
  - Closing Session (Other Business, Document Production, 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 October 1, 2003.

Robert Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 03–26232 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Somerset County, Pennsylvania and Garrett County, MD

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be

prepared for a proposed transportation project along Section 019 of U.S. 219. This section extends from the southern terminus of the Meyersdale Bypass in Somerset County, Pennsylvania to I–68 in Garrett County, Maryland.

FOR FURTHER INFORMATION CONTACT: David W. Cough P.E., Director of Operations, Federal Highway Administration, Pennsylvania Division Office, 228 Walnut Street, Room 508, Harrisburg, Pennsylvania, 17101–1720, Telephone: (717) 221–3411; David L. Sherman, P.E., Project Manager, Pennsylvania Department of Transportation, Engineering District 9, 1620 North Juniata Street, Hollidaysburg, Pennsylvania, 16648, Telephone: (814) 696–7170; or Russell Walto, P.E., Project Manager, Maryland State Highway Administration, 707 North Calvert Street, Mailstop C–301, Baltimore, Maryland 21202, Telephone: (410) 545–8547.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PENNDOT) and the Maryland State Highway Administration (SHA), will conduct a Design Location Study and will prepare an Environmental Impact Statement (EIS) to evaluate alternatives that upgrade the current two-lane transportation system. The study area will extend from the southern terminus of the Meyersdale Bypass in Somerset County, Pennsylvania to I–68 in Garrett County, Maryland. The corridor is approximately 8.1 miles in length.

The initial stage of this process is for development of conceptual alternatives. A range of conceptual alternatives will be developed and examined within the context of the identified project needs, environmental and socioeconomic constraints, and public input, as well as their consistency with county and municipal plans and policies. Alternatives to be examined will include the No-Build Alternative as well as Build Alternatives. This analysis will be used to refine the alternatives or eliminate a particular alternative(s) from further consideration due to the potential for socio-economic, environmental, or engineering impacts. This stage of the study will result in a Preliminary Alternatives Analysis Report.

Following the preliminary analysis, the alternatives that are recommended for further study will be developed in greater detail and the environmental impacts for each will be assessed and described in the Environmental Impact Statement.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who express an interest in the proposal. Public involvement and inter-agency coordination will be maintained throughout the development of the study. Public notices of the time and place of the public meetings and any required public hearings will be provided.

To ensure that the full range of issues related to this proposed action is addressed and that all significant issues are identified, comments and suggestions are invited form interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, PENNDOT, or MDSHA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Dated: October 10, 2003.

David C. Lawton,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 03–26273 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 644X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Allegheny County, PA

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 11.2-mile line of railroad, extending between milepost BG 7.2 at Glenshaw and milepost BG 18.4 at Bakerstown, in Allegheny, County, PA. The line traverses United States Postal Service Zip Codes 15044, 15101, and 15116. There are no stations on the line.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 18, 2003,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] must be filed by October 27, 2003. Petitions to reopen must be filed by November 6, 2003, with: Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, 500 Water Street, J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 8, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–26133 Filed 10–16–03; 8:45 am]

BILLING CODE 4915–00–P

[1] Because this is a discontinuance of service proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Additionally, this proceeding is exempt from environmental and historic reporting requirements under 49 CFR 1105.6(c)(6) and 1105.8. Nevertheless, CSXT filed environmental and historic reports with its notice.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 642X)]

CSX Transportation, Inc.—Abandonment Exemption—in Vermillion County, IL

On September 29, 2003, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 5.9-mile line of railroad, in CSXT's Western Region, Chicago Division, Woodland Subdivision, extending from milepost OZE 107.1 at Rossville Junction to milepost OZE 113.0 at Henning, in Vermillion County, IL. The line traverses U.S. Postal Service Zip Codes 61848 and 60963 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 16, 2004.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 6, 2003. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 642X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Natalie S. Rosenberg, 500 Water Street, J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before November 6, 2003.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on the Board's Web site at *''www.stb.dot.gov.''*

Decided: October 8, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–26039 Filed 10–16–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 7, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW Washington, DC 20220.

DATES: Written comments should be received on or before November 17, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0028.

Form Number: IRS Forms 940 and 940–PR.

Type of Review: Extension.

Title: Form 940: Employer's Annual Federal Unemployment (FUTA) Tax Return; and Form 940–R: Planilla Para La Declaración Annual Del Patrono—La Contribución Federal Para El Desempleo (FUTA).

Description: Internal Revenue Code (IRC) section 3301 imposes a tax on employees based on the first $7,000 of taxable annual wages paid to each employee. IRS uses the information reported on Forms 940 and 940–PR (Puerto Rico) to ensure that employers have reported and figured the correct FUTA wages and tax.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/Recordkeepers: 1,367,000.

Estimated Burden Hours Respondent/Recordkeepers:

	Form 940	Form 940–PR
Recordkeeping	13 hr., 52 min.	14 hr., 35 min.
Learning about the law or the form	1 hr., 17 min.	1 hr., 0 min.
Preparing and sending the form to the IRS	1 hr., 50 min.	1 hr., 35 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 20,940,530 hours.

OMB Number: 1545–0052.

Form Number: IRS Forms 990–PF and 4720.

Type of Review: Revision.

Title: Form 990–PF: Return of Private Foundation or Section 4974(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation; and Form 4720: Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

Description: Internal Revenue Code (IRC) section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual

information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990–PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundation and certain related parties. Form 4720 is used by foundations and/or related persons to report prohibited activities in detail and pay the tax on them.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 54,000.

Estimated Burden Hours Respondent/ Recordkeeper:

	Form 990–PF	Form 4720
Recordkeeping	141 hr., 20 min.	39 hr., 55 min.
Learning about the law or the form	28 hr., 8 min.	16 hr., 30 min
Preparing the form	33 hr., 33 min.	23 hr., 0 min.
Copying, assembling, and sending the form to the IRS	32 min.	1 hr., 22 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 11,057,373 hours.

OMB Number: 1545–0196.

Form Number: IRS Form 5527.

Type of Review: Revision.

Title: Split-Interest Trust Information Return.

Description: The data reported is used to verify the beneficiaries of a charitable remainder trust include the correct amounts in their tax returns, and that the split-interest trust is not subject to private foundation taxes.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 88,640.

Estimated Burden Hours Respondent/ Recordkeeper:

Recordkeeping	62 hr., 24 min.
Learning about the law or the form.	11 hr., 19 min.
Preparing the form	19 hr., 20 min.
Copying, assembling, and sending the form to the IRS.	1 hr., 52 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 7,502,233 hours.

OMB Number: 1545–1222.

Form Number: IRS forms 8635 and 9383.

Type of Review: Extension.

Title: Form 8635: Federal Income Tax Products Order Blank; and Form 9383: Fax Order Blank for BPOL Reorders.

Description: Form 8635 serves as an order blank for participants of the BPOL Program. It collects information from banks, post offices and libraries detailing the quantities and types of tax forms and related materials that they will distribute to taxpayers during the tax-filing season. The fax sheet (Form 9383) allows participants to order products via fax.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 36,688.

Estimated Burden Hours Respondent: 6 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 3,669 hours.

OMB Number: 1545–1851.

Regulation Project Number: REG–124312–02 Final.

Type of Review: Extension.

Title: Golden Parachute Payments.

Description: These regulations deny a deduction for excess parachute payments. A parachute payment is a payment in the nature of compensation to a disqualified individual that is contingent on a change in ownership or control of its corporation. Certain payments, including payments from a small corporation, are exempt from the definition of parachute payment if certain requirements are met (such as shareholder approval and disclosure requirements).

Respondents: Business or other for-profit.

Estimated Number of Respondents: 800.

Estimated Burden Hours Respondent: 15 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12,000 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 03–26173 Filed 10–16–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting Correction

Notice is hereby given, pursuant to 5 U.S.C. App. 2, § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on November 4, 2003, at 11 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Bond Market Association (''Committee'')

This Notice corrects the date of the meeting shown in the Notice published on October 10, 2003 (68 FR 58750).

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, § 10(d) and Pub. L. 103–202, § 202(c)(1)(B)(31 U.S.C. § 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, Section 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to P.L. 103–202, Section 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and

full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, Section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions, financing estimates and technical charts. This briefing will give the press an opportunity to ask questions about financing projections and technical charts. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Tim Bitsberger, Deputy Assistant Secretary, Federal Finance, at (202) 622–2245.

Dated: October 14, 2003.

Brian C. Roseboro,

Assistant Secretary Financial Markets.

[FR Doc. 03–26382 Filed 10–15–03; 2:16 pm]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) will be discussing issues on IRS Customer Service.

DATES: The meeting will be held Monday, November 3, 2003.

FOR FURTHER INFORMATION CONTACT: Judi Nicholas at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Monday, November 3rd, 2003, from 8 a.m. Pacific time to 10 a.m. Pacific time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Judi Nicholas, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Judi Nicholas. Ms. Nicholas can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: various IRS issues.

Dated: October 10, 2003.

Tersheia Carter,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–26314 Filed 10–16–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Monday, November 17, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Peterson O'Brien at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Monday, November 17th, 2003 from 2 p.m. Pacific Time to 4 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Judi Nicholas, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Judi Nicholas. Ms. Nicholas can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: various IRS issues.

Dated: October 10, 2003.

Tersheia Carter,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–26315 Filed 10–16–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Payroll Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Payroll Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessoning the burden for Small Business/Self Employed individuals. Recommendations for IRS systemic changes will be developed.

DATES: The meeting will be held Thursday, November 6, 2003.

FOR FURTHER INFORMATION CONTACT: Mary O'Brien at 1–888–912–1227, or 206 220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed—Payroll Committee of the Taxpayer Advocacy Panel will be held Thursday, November 6th, 2003 from 3 p.m. EDT to 4:30 p.m. EDT via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Mary O'Brien. Ms O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: October 10, 2003.

Tersheia Carter,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 03–26316 Filed 10–16–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government Owned Invention Available for Licensing

AGENCY: Research and Development Office, VA.

ACTION: Notice of Government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Research and Development Office, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; email at *bob.potts@hq.med.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is:

International Patent Application No. PCT/US03/19559 ''Isolated/Cloned Human NT2 Cell Lines Expressing Serotonin and GABA''

Dated: October 3, 2003.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 03–26183 Filed 10–16–03; 8:45 am]

BILLING CODE 8320–01–U

Corrections

Federal Register

Vol. 68, No. 201

Friday, October 17, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Office of the Special Trustee for American Indians

New Information Collection

Correction

In notice document 03–24795 beginning on page 56318 in the issue of Tuesday, September 30, 2003 make the following correction:

On page 56319, in the table, under the heading ''CFR Section'' in the first line, ''15.705'' should read ''115.705''

[FR Doc. C3–24795 Filed 10–16–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
October 17, 2003

Part II

Department of Housing and Urban Development

24 CFR Part 5
Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 5

[Docket No. FR–4695–F–02]

RIN 2501–AC98

Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule provides for codification of the requirements of Executive Order 13202 (the Executive Order), entitled ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.'' The Executive Order provides that, to the extent permitted by law, agencies may not permit inclusion of contract conditions requiring or prohibiting entering into or adhering to agreements with a labor organization, or otherwise discriminating against parties entering into or adhering to such agreements, as a condition for award of any federally funded contract or subcontract for construction. This final rule follows publication of a May 22, 2003, interim rule. HUD did not receive any public comments on the interim rule and, therefore, is adopting the interim rule without change.

DATES: Effective Date: November 17, 2003.

FOR FURTHER INFORMATION CONTACT: Edward L. Johnson, Director, Office of Labor Relations, Office of Departmental Operations and Coordination, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–0370 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—HUD's May 22, 2003, Interim Rule

On May 22, 2003 (68 FR 28102), HUD published an interim rule establishing regulations to codify the requirements of Executive Order 13202 for HUD's programs. President George W. Bush signed Executive Order 13202, entitled ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects'' on February 17, 2001 (the Order was published in the **Federal Register** on February 22, 2001, at 66 FR 11225). Executive Order 13202 is intended to improve the internal management of the Executive Branch. The Order provides that agencies may not require or prohibit bidders, offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. The Executive Order also permits agency heads to exempt a project from its requirements under special circumstances, but the exemption may not be related to the possibility of or an actual labor dispute.

The Order was amended by Executive Order 13208, issued on April 6, 2001. The amendment was to add a paragraph (c) to section 5 of Executive Order 13202. The new paragraph (c) addresses exemption of a project from the provisions of sections 1 and 3 of the Executive Order. (Executive Order 13208 was published in the **Federal Register** on April 11, 2001, at 66 FR 18717.)

HUD's May 22, 2003, interim rule added a new section § 5.108 to HUD's regulations in 24 CFR part 5, subpart A. The interim rule codified the requirements of Executive Order 13202 for HUD's programs. The regulations in subpart A of part 5 contain the definitions and federal requirements generally applicable to all of HUD's programs. By placing the requirements of the Executive Order in those HUD regulations that contain across-the-board requirements, HUD is ensuring the broadest applicability of the requirements of Executive Order 13202. The preamble to the May 22, 2003, interim rule provides a detailed description of the regulatory amendments to 24 CFR part 5.

II. This Final Rule

This final rule follows publication of the May 22, 2003, interim rule. The interim rule became effective on June 23, 2003, and provided for a 60-day public comment period. The comment period on the interim rule closed on July 21, 2003. HUD did not receive any public comments on the interim rule. Accordingly, this final rule adopts the interim rule without changes.

III. Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The final rule implements Executive Order 13202, which revokes previous requirements encouraging the inclusion of project labor agreements as a condition for award of federally funded contracts or subcontracts on construction projects. The Executive Order directs government neutrality towards the use of such agreements, thus placing the decision of whether to enter into a project labor agreement with individual contractors and subcontractors.

This applies equally to large and small entities that seek federally funded construction contracts and does not establish requirements applicable to entities based on their size. Further, HUD neither requires nor prohibits the use of project labor agreements on HUD-funded construction projects. Although some HUD-funded construction projects are subject to project labor agreements, in many instances this is due to the voluntary decision of individual contractors and subcontractors. Therefore, the final rule will not significantly revise existing practices or hiring costs for small contractors and subcontractors participating in HUD's construction programs. To the extent the rule has an impact on small entities, it should be a positive economic impact on those small entities that are not union shops, because the rule may provide additional opportunities to work on federally funded construction projects by non-union small businesses.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the interim rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of the UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the interim rule for part 5 of subtitle A of title 24 of the Code of Federal Regulations, published on May 22, 2003, at 68 FR 28102, is promulgated as final, without change.

Dated: October 7, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03–26317 Filed 10–16–03; 8:45 am]

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Federal Register

Friday,
October 17, 2003

Part III

The President

Proclamation 7722—White Cane Safety Day, 2003

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Friday, October 17, 2003

Presidential Documents

Title 3—

The President

Proclamation 7722 of October 15, 2003

White Cane Safety Day, 2003

By the President of the United States of America

A Proclamation

Every day, millions of Americans who are blind or visually impaired use the white cane as they travel, attend school, or work. The white cane remains one of the most important and reliable tools for people who are blind or visually impaired. It increases the mobility of these citizens, facilitating their inclusion in all aspects of American life. Since 1964 on White Cane Safety Day, America has reaffirmed our commitment to achieving equal opportunity and full independence for those who are blind or visually impaired.

Today, more people with disabilities are attending school and working than ever before. However, much work remains to fully open the doors of opportunity for citizens who are blind or visually impaired. To meet these challenges, I have created the New Freedom Initiative, a comprehensive plan to assist Americans with disabilities by increasing access to educational and employment opportunities. This initiative is lowering barriers more so that Americans can participate fully in their communities, and live and work in dignity and freedom.

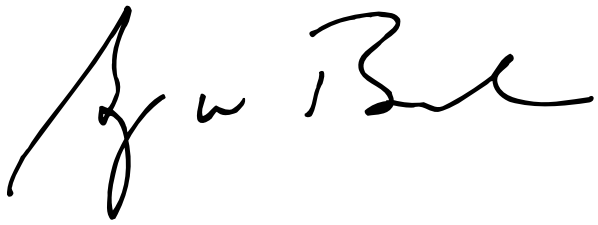
My Administration also continues to promote implementation of section 508 of the Rehabilitation Act of 1973. This important statute requires the Federal Government to make more of its electronic and information technology resources, including Government websites, accessible to people with disabilities.

As we recognize the contributions of people who are blind or visually impaired, we resolve to continue building a better America where all individuals are celebrated for their abilities and encouraged to achieve their dreams.

The Congress, by joint resolution (Public Law 88–628) approved on October 6, 1964, as amended, has designated October 15 of each year as ''White Cane Safety Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 15, 2003, as White Cane Safety Day. I call upon public officials, educators, librarians, and all the people of the United States to join with me in ensuring that all the benefits and privileges of life in our great Nation are available to blind and visually impaired individuals, and to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of October, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.



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H.R. 2152/P.L. 108–99

To amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program. (Oct. 15, 2003; 117 Stat. 1176)

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