Federal Register

9–3–04 Friday
Vol. 69 No. 171 Sept. 3, 2004

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

Federal Register

9–3–04 Friday
Vol. 69 No. 171 Sept. 3, 2004

Pages 53791–53998

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, *www.archives.gov*.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara*, available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via email at *gpoaccess@gpo.gov*. The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, *bookstore@gpo.gov*.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 69 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **202–512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **202–512–1800**

Assistance with public single copies — **1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **202–741–6005**

Assistance with Federal agency subscriptions — **202–741–6005**

Contents

Federal Register
Vol. 69, No. 171
Friday, September 3, 2004

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
916.....53791
917.....53791

14 CFR
39.....53794
71.....53976
73 (2 documents).....53795, 53796
97.....53798

Proposed Rules:
25.....53841
39 (5 documents).....53846, 53848, 53853, 53855, 53858
71 (2 documents).....53860, 53861

18 CFR
342.....53800

21 CFR
201.....53801

24 CFR
24.....53978

26 CFR
1.....53804

Proposed Rules:
26.....53862

28 CFR
549.....53804

33 CFR
117.....53805

38 CFR
19.....53807
20.....53807

39 CFR
111.....53808

40 CFR
52.....53835
63.....53980

Proposed Rules:
63.....53987
166.....53866

44 CFR
64.....53835

46 CFR
67.....53838

47 CFR
25.....53838

50 CFR
20.....53990
648.....53839

Rules and Regulations

Federal Register
Vol. 69, No. 171
Friday, September 3, 2004

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV04–916/917–03 FR]

Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the reporting requirements in the rules and regulations of the marketing orders (orders) for fresh nectarines and peaches grown in California. The orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). Under the orders, authority is provided for the committees to require handlers to file reports on their shipments of fresh nectarines and peaches. This rule revises the current shipment report to require handlers to include new information on the growers whose fruit the handler handles annually. The new information enhances committee communications and facilitates the development of a simplified ballot for referenda.

DATES: Effective Date: This final rule becomes effective September 4, 2004.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491; Fax: (202) 720–8938.

Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491; Fax: (202) 205–8938; or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreements Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively. The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule revises the orders' rules and regulations pertaining to reporting requirements by revising the current handler shipment report for fresh nectarines and peaches. Handlers will be required to report the names, addresses, telephone numbers, and any available facsimile numbers and e-mail addresses for the growers who produced the nectarines and/or peaches the handlers shipped during the season. Handlers will also be required to report the nectarine and/or peach volumes of each of their growers annually. This change was unanimously recommended by the committees at their meetings on February 25, 2004.

In §§ 916.60 and 917.50 of the orders, authority is provided for the committees to require handlers to file reports with the committees. The information authorized includes, but is not limited to: (1) The name of the shipper and the shipping point; (2) the car or truck license number (or name of the trucker), and identification of the carrier; (3) the date and time of departure; (4) the number and type of containers in the shipment; (5) the quantities shipped, showing separately the variety, grade, and size of the fruit; (6) the destination; and (7) the identification of the inspection certificate or waiver pursuant to which the fruit was handled.

The nectarine order also requires that handlers supply the committee with other information, pursuant to paragraph (b) of §§ 916.60, which states, in part: "Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part."

The requirement under the peach order is similar in paragraph (b) of § 917.50, which states, in part, "Upon request of any committee, made with the approval of the Secretary, each handler shall furnish to the Manager of the Control Committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part."

Under paragraph (b) of §§ 916.160 and 917.178 of the orders' rules and regulations, the requirement for a

shipment report is specified, and information required on the report and a due date for submission of the report are established, as well. With this final rule, paragraph (b) in §§ 916.160 and 917.178 is amended to add the requirement that handlers begin reporting each of their grower's annual nectarine and/or peach volumes by including the grower's name, address, telephone number, facsimile number (if applicable), e-mail address (if applicable), and total volumes in 25-pound containers or container equivalent units.

At their February 25, 2004, meetings, the Nectarine Administrative Committee and the Peach Commodity Committee discussed the merits of revising the current shipment reports. The committees considered including information about varieties and styles of pack for each handler's growers. After some discussion about the proposed new information, it was determined that varietal and pack style information was unnecessary as long as each grower's total volume was required. The committees, then, unanimously recommended amending the existing shipment reports to include the name, address, telephone number, facsimile number (if applicable), e-mail address (if applicable), and volume of nectarines and/or peaches each handler handled annually on behalf of each of their growers.

The committees believe that having such information allows them to communicate more effectively and efficiently with growers. Material distributed by the committees includes information such as: Production and post-harvest research; proposed and existing regulatory requirements under the marketing orders, and requirements of local, county, State, or other Federal agencies; surveys about research needs; crop estimates; seasonal packout information; annual reports; meeting notices; and meeting minutes, etc.

The grower information provides the committees with more complete information on the growers that constitute their respective industries. More importantly, the committees will have information on each grower's volume of fruit, which will help the committees make more accurate crop estimates and compute seasonal packout totals.

According to the committees, such information also permits USDA to simplify continuance referendum ballots that are used to determine whether growers support the continuation of the marketing orders. These referenda are required under the orders every four years. USDA considers termination of the marketing orders if less than two-thirds of those voting and less than two-thirds of the volume represented in the referendum favor continuance.

Currently, the ballot requires growers to list the total volume of nectarines and/or peaches that he or she produced during a representative period (usually the crop year preceding the referendum) by container type. This information is necessary to ensure that each grower's vote is properly weighted by the volume of fruit he or she produced. However, growers have complained that the ballot is confusing and difficult to complete partly because of the requirement for each grower to provide volume information. The committees believe that elimination of this requirement from the ballot will not only simplify the ballot, but also encourage more growers to vote.

USDA may now simplify the ballot by removing the requirement for grower volume information; the committee staff, based upon information from the revised shipment report, can now provide that information to USDA to facilitate vote tabulations in the next referendum. However, in the event that a handler fails to file a shipment report, his or her growers will be required to provide the volume of nectarines and/or peaches that were packed during the representative period, as part of the tabulation process.

Producer ballots on order amendments, as well, will be similarly changed by USDA to foster more producer participation.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 250 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. The Small Business Administration (13 CFR 121.201) defines small agricultural service firms, which include handlers, as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined as those having annual receipts of less than $750,000.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. In the 2003 season, the average handler price received was $7.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 714,286 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2003 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the packers within the industry.

The committees' staff also has estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. In the 2003 season, the average producer price received was $4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2003 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry.

With an average producer price of $4.00 per container or container equivalent, and a combined packout of nectarines and peaches of 44,202,600 containers, the value of the 2003 packout level is estimated to be $176,810,400. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimated average revenue per producer of approximately $98,228 from the sales of nectarines and peaches.

This final rule revises §§ 916.160 and 917.178 of the orders' administrative rules and regulations to require handlers to provide information annually about growers who grew the fruit they handled. The handlers will be required to list each grower's name, address, telephone number, facsimile number (if applicable), and e-mail address (if applicable). Additionally, the handlers will be required to list the volume of nectarines and/or peaches handled (in containers or container equivalents) for each of their growers.

Information obtained from such reports is expected to improve communications within the industry and facilitate the development of

simplified continuance referendum and amendatory ballots.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), AMS is seeking OMB approval of a new information collection. The new information collection would not become effective until OMB approves of the additional information collection. Upon OMB approval of the new information collection, the reports would be merged into 0581–0189.

An alternative to this action is to continue operations without requiring grower information. However, having such grower information enhances communication in the industry and may promote industry cohesion. Committee members agreed that the value of having grower information outweighed the burden on handlers of filing such reports by allowing the committees to more effectively target information and communications to growers. In addition, when e-mail addresses are provided, much of the information that the committees now mail to the industry could be sent electronically, thereby reducing committee administrative costs.

During the deliberations, some committee members indicated their concern that confidentiality of the required information would not be maintained. However, such information is available only to committee staff members, who are required by §§ 916.60(d) and 917.50(d) to maintain confidentiality of all reports and records submitted by handlers.

Further, a confidentiality statement will be provided on each form. Other concerns about confidentiality were addressed by not requiring handlers to report the volume handled by variety and style of pack. By limiting the quantity reported by the handler to the total volume handled for each of the handler's growers, members felt that confidentiality was better assured.

The committee meetings on February 25 were widely publicized throughout the tree fruit industry and all interested persons were invited to express their views and participate in committee deliberations. Like all committee meetings, the February 25, 2004, meetings were public meetings, and all entities, large and small, were able to express their views on this issue. Meeting notices were provided to committee members and other interested persons both by mail and through the committee website. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information collection requirements and duplication by industry and public sector agencies.

A proposed rule concerning this action was published in the **Federal Register** on May 28, 2004 (69 FR 30597). Copies of the rule were provided to the industry through a link on the committees' website, as well as through the Internet by USDA and the Office of the Federal Register. A 60-day comment period ending on July 27, 2004 was provided to allow interested persons to respond to the proposal. No comments were received. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following Web site: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, including the information and recommendations submitted by the committees and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already receiving nectarines and peaches from growers and will need to begin collecting complete grower information as soon as possible for submission to the committees by November 15. Further, handlers are aware of this rule, which was recommended at public meetings, and interested persons were provided 60 days in the proposed rule to submit comments.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

■ 2. In § 916.160, paragraph (b) is revised to read as follows:

§ 916.160 Reporting procedure.

* * * * *

(b) *Recapitulation of shipments.* Each shipper of nectarines shall furnish to the manager of the Nectarine Administrative Committee not later than November 15 of each year a recapitulation of shipments of each variety shipped during the just-completed season. The recapitulation shall show: The name of the shipper, the shipping point, the district of origin, the variety, and the number of packages, by size, for each container type. Each shipper also shall furnish to the manager not later than November 15, a recapitulation of shipments by that shipper's growers showing: each grower's name, address, telephone number, facsimile number (if applicable), and e-mail address (if applicable), and the total number of packages shipped by container or container equivalents for each grower.

* * * * *

PART 917—PEACHES GROWN IN CALIFORNIA

■ 3. In § 917.178, paragraph (b) is revised to read as follows:

§ 917.178 Peaches.

* * * * *

(b) *Recapitulation of shipments.* Each shipper of peaches shall furnish to the manager of the Control Committee not later than November 15 of each year a recapitulation of shipments of each variety shipped during the just-completed season. The recapitulation shall show: The name of the shipper, the shipping point, the district of origin, the variety, and the number of packages, by size, for each container type. Each shipper also shall furnish to the manager not later than November 15, a recapitulation of shipments by that shipper's growers showing: each grower's name, address, telephone number, facsimile number (if applicable), and e-mail address (if applicable), and the total number of

packages shipped by container or container equivalents for each grower.

* * * * *

Dated: August 30, 2004.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 04–20107 Filed 9–2–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19017; Directorate Identifier 2004–NM–144–AD; Amendment 39–13782; AD 2004–18–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–10–10F, MD–10–30F, MD–11, MD–11F, and 717–200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all McDonnell Douglas MD–10–10F, MD–10–30F, MD–11, MD–11F, and 717–200 airplanes. This AD requires a revision to the Limitations section of the Airplane Flight Manual (AFM) to prohibit use of the flight management system (FMS) profile (PROF) mode for descent and/or approach operations unless certain conditions are met. This AD is promoted by a report of two violations of the selected flight control panel (FCP) altitude during FMS PROF descents. We are issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

DATES: Effective September 20, 2004.

We must receive comments on this AD by November 2, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- 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 trough Friday, except Federal holidays.

You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

- You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

Docket Management Systems (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Examining the Dockets

You can examine the AD docket on the Internet at *http://www.dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Jim Webre, Flight Test Pilot, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5364; fax (562) 627–5210.

Plain language information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION: We have received a report of two violations of the selected flight control panel (FCP) altitude during flight management system (FMS) profile (PROF) descents on McDonnell Douglas Model MD–11 airplanes. Investigation by the airplane and avionics manufacturers revealed that under certain conditions during an FMS PROF descent, the FMS will allow an airplane to descend below the selected FCP altitude or FMS-constrained altitude or both. In addition, the FMS will not command the autopilot or flight director to level off at the next altitude constraint, if a specific series of events occur and the airspeed of the airplane is within the overspeed detection window during an FMS descent. Under certain conditions during the FMS PROF descent, the uncommanded descent of the airplane below the selected level-off altitude, if not corrected, could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

The FMS software on Model MD–10–10F, MD–10–30F, MD–11F, and 717–200 airplanes is identical to that on the affected Model MD–11 airplanes. Therefore, all of these models may be subject to the same unsafe condition.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design, which use the same FMS software. Therefore, we are issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in reducing the separation between the airplane and nearby air traffic or terrain. This AD requires a revision to the Limitations section of the Airplane Flight Manual (AFM) to prohibit use of the FMS PROF mode for descent and/or approach operations unless certain conditions are met.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a software modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this

AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect 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 "Docket No. FAA–2004–19017; Directorate Identifier 2004–NM–144–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You can get more information about plain language at *http://www/faa.gov/language* and *http://www.plainlanguage.gov.*

Regulatory Findings

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.

For the reasons discussed above, I certify that the regulation:

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

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

3. 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 regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2004–18–04 McDonnell Douglas: Amendment 39–13782. Docket No. FAA–2004–19017; Directorate Identifier 2004–NM–144–AD.

Effective Date

(a) This AD becomes effective September 20, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all McDonnell Douglas Model MD–10–10F, MD–10–30F, MD–11F, and 717–200 airplanes; certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of two violations of the selected flight control panel (FCP) altitude during flight management system (FMS) profile (PROF) descents. The FAA is issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

AFM Revision

(f) Within 90 days after the effective date of this AD, revise the Limitations section of the Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"Use of PROF mode for descent and/or approach operations is prohibited unless

1. The airplane is on path and the FMA indicates THRUST | xxx | PROF, or

2. The indicated airspeed is below Vmax for the airplane configuration by at least:

a. 10 knots at indicated altitudes below 10,000 feet, or

b. 15 knots at indicated altitudes of 10,000 feet or above, or

3. Basic autoflight modes (*e.g.*, LVL CHG V/S, or FPA) are used to recapture the path when the PROF mode is engaged and the airplane is:

a. Above or below the path and the FMA indicates PITCH | xxx | IDLE, or

b. Below the path and the FMA indicates THRUST | xxx | V/S."

Note 1: When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(h) None.

Issued in Renton, Washington, on August 25, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20015 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–17180; Airspace Docket No. 03–AWP–03]

RIN 2120–AA66

Amendment of Restricted Area 2306C, Yuma West, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the designated altitudes and times of use for Restricted Area R–2306C (R–2306C), Yuma West, AZ. This action would raise the upper altitude of R–2306C from 17,000 feet mean seal level (MSL) to

40,000 feet MSL. This action also reduces the time of use from continuous, to 0600 to 2200 hours daily local time, other times by NOTAM. The U.S. Army requested the modification to better accommodate existing and future testing requirements at the Yuma Proving Ground, AZ. This modification does not alter the current lateral boundaries or activities conducted in R–2306C.

EFFECTIVE DATE: 0901 UTC, November 25, 2004.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2004, the FAA proposed to modify the designated altitudes and times of use for R–2306C (69 FR 30606). The U.S. Army requested this modification to better accommodate existing and forecasted training requirements at Yuma Proving Ground, AZ. Interested parties were invited to participate in this rulemaking by submitting written comments. No comments were received.

The Rule

This action amends 14 Code of Federal Regulations (14 CFR) part 73 (part 73) by changing the designated altitude and times of use for R–2306C, Yuma, AZ. Specifically, this action changes the designated altitudes from "Surface to 17,000 feet MSL," to "surface to 40,000 feet MSL". This amendment also reduces the times of use from "continuous," to "0600 to 2200 hours daily local time, other times by NOTAM." The U.S. Army requested this modification to better accommodate existing and forecast training requirements at Yuma Proving Ground, AZ. This action does not change the current lateral boundaries or activities conducted within R–2306C.

Section 73.23 of 14 CFR part 73 was republished in FAA Order 7400.8L, dated October 7, 2003.

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

Environmental Review

The FAA determined that this change applies to on-going military activities occurring between 17,000 feet MSL and 40,000 feet MSL, and not over noise-sensitive areas; that there will be no significant noise increase associated with this change; and no significant air quality impacts. The FAA further determined that this action does not trigger any extraordinary circumstances that would warrant further environmental review. The FAA concluded that this action is categorically excluded from further environmental analysis in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts, dated June 8, 2004.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

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

§ 73.23 [Amended]

■ 2. § 73.23 is amended as follows:

* * * * *

R–2306C Yuma, AZ [Amended]

■ By removing "Designated altitude. Surface to 17,000 feet MSL," and "Times of use. Continuous," and substituting "Designated altitude. Surface to 40,000 feet MSL," and "Times of use. 0600 to 2200 daily local time, other times by NOTAM."

* * * * *

Issued in Washington, DC on August 27, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

[FR Doc. 04–20172 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2003–16722; Airspace Docket No. 03–AWP–19]

RIN 2120–AA66

Establishment of Restricted Area 2503D; Camp Pendleton, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Restricted Area 2503D (R–2503D) at Camp Pendleton, CA. Specifically, this action converts the current San Onofre High and Low Military Operations Areas (MOAs) and the associated Controlled Firing Area (CFA) to R–2503D. The FAA is taking this action to assist the Camp Pendleton U.S. Marine Corps (USMC) Base, CA, mission to provide realistic fleet training requirements and enhance safety.

EFFECTIVE DATE: 0901 UTC, November 25, 2004.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington,DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION

History

On March 26, 2004, the FAA published in the **Federal Register** a notice proposing to establish R–2503D at Camp Pendleton, CA (69 FR 15746). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received twenty written comments. All comments received were considered before making a determination on the final rule. An analysis of the comments received and the FAA's responses are summarized in the "Discussion of Comments" section.

Discussion of Comments

The Aircraft Owners and Pilots Association (AOPA) endorsed the proposal stating the overall impact of the proposed changes would be less severe than the impact of the current MOA for most general aviation (GA) pilots. However, if the use of the area exceeds the times of use stated in the proposal, no more than twenty days per year from 0600 to 2400, they would withdraw their support.

The FAA agrees with the AOPA comments. In order for operations to exceed the times stated in the proposal, further rulemaking actions would be required.

Several commentors stated that the boundary description was not clear enough for pilots to determine when they are clear of the proposed airspace.

The FAA agrees with the comments concerning the boundary description. To assist visual flight rules (VFR) pilots, the San Diego VFR Terminal Area Chart will be amended to include waypoints and radial (DME), depicting the correct lateral distance from the shore line.

The Orange County Pilots Association suggested that the proposal be modified to establish a corridor along Interstate 5 to allow normal operations on Victor 23 (V–23).

The FAA does not agree. A VFR corridor along Interstate 5 would not permit normal operations on V–23. The restricted area will be managed on a real-time basis to minimize the impact on normal operations. Southern California TRACON (SCT) will be the designated controlling agency for the restricted area. The SCT has dedicated direct landlines with the Marine air traffic controllers who have the authority to allow transit through the area in accordance with a letter of procedure between SCT and the Marine Corps.

Several commentors stated that they will be forced further from the shoreline over the water during the activation of the restricted area.

Currently, during MOA activations, a majority of transitioning VFR pilots contact SCT for flight following and receive vectors around the MOA airspace. They are vectored three miles offshore. With the new R–2503D, vectors will only be one mile offshore. Further, a pilot can contact Camp Pendleton's Radar Air Traffic Control Facility (RATCF) "Longrifle" on 123.2/301.9 and request transition through R–2503D. When conditions do not permit a transition through the area and the pilot is required to circumnavigate the area, it is approximately 1 nautical mile (NM) offshore to remain clear of the airspace. Instrument flight plans (IFR) aircraft are vectored to remain clear of the lateral boundaries of the MOA by three miles. This change will reduce the lateral distance offshore for IFR aircraft from 6 NM to 4 NM.

Several comments were received concerning the restricted area impact on IFR operations for both Oceanside and Carlsbad (McClellan-Palomar) airports.

Pilots operating on IFR will not experience any additional impact from the restricted area. Procedures utilized for IFR operations during activation of the current MOA's will remain in use. Instrument procedures into Oceanside airport, McClellan-Palomar airport, and holding over the Oceanside VORTAC are addressed in a Letter of Procedure between the SCT and the Military Air Traffic Control Facility facilitating real time use of the airspace.

Two comments were received concerning a lack of public notice on the proposal.

Formal briefings were provided to the San Diego Airspace Users Group and Southern California Airspace Users Working Group on March 6, 2003, and April 6, 2003. A formal briefing was also provided to AOPA on May 7, 2003. Discussion of the proposal was also added to regularly scheduled aviation safety briefings to the public via coordination with area Flight Standards District Offices.

The FAA believes that the real-time procedures for the airspace, and limited use twenty days per year between 0600 to 2400 hours should minimize the impact on aviation operations.

With the exception of editorial changes, this amendment is the same as that proposed in the notice.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) to establish R–2503D, Camp Pendleton, CA. The USMC requested this change because the existing special use airspace did not permit essential large-scale amphibious assault activities (including artillery live-fire, fixed-wing close air support, and remotely operated aircraft operations). The time of designation for R–2503D will be intermittent by NOTAM 24 hours in advance; limited to a maximum use of 20 days per year from 0600 to 2400 hours local time; and no more than 90 days per year between 0001 and 0600 local time. The restricted area is available for joint-use and is scheduled for training operations on an as needed basis subject to the maximum use limits.

This action amends 14 CFR Section 73 of the Federal Aviation Regulations that were republished in FAA Order 7400.8L dated October 7, 2003.

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

Environmental Review

Pursuant to Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500–1508), and other applicable law, the FAA conducted an independent review of the U.S. Marine Corps Final Environmental Assessment (FEA) for New Restricted Airspace at Marine Corps Base, Camp Pendleton, CA, dated August 2003. The FAA adopted the FEA and prepared a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) dated March 2004. The FONSI/ROD analyzed the modification of Special Use Airspace at Marine Corps Base Camp Pendleton California and establishment of the restricted area to support training. This final rule, which establishes a new restricted area, will not result in significant environmental impacts.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

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

§ 73.25 [Amended]

■ 2. § 73.25 is amended as follows:

* * * * *

R–2503D Camp Pendleton, CA (Added)

Boundaries. Beginning at lat. 33°22′42″ N.; long. 117°36′45″ W.; to lat. 33°27′13″ N.; long. 117°34′17″ W.; to lat. 33°18′41″ N.; long. 117°23′58″ W.; to lat. 33°17′30″ N.; long. 117°16′43″ W.; to lat. 33°14′09″ N.; long. 117°26′38″ W.; to the point of the beginning by following a line 1 NM from and parallel to the shoreline.

Designated altitudes. 2,000 feet MSL to 11,000 feet MSL.

Time of designation. Intermittent by NOTAM 24 hours in advance not to exceed 20 days per year from 0600 to 2400 local time and not more than 90 days per year between 0001 and 0600 local.

Controlling agency. FAA, Southern California TRACON.

Using agency. U.S. Marine Corps, Commanding General, MCB Camp Pendleton, CA.

* * * * *

Issued in Washington, DC, August 27, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

[FR Doc. 04–20173 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30423; Amdt. No. 3104]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 3, 2004. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 3, 2004.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or,

4. The National Archives and Records Administration(NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on August 27, 2004.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instruction Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective September 30, 2004*

Greenville, AL, Mac Crenshaw Memorial, RNAV (GPS) RWY 14, Orig
Greenville, AL, Mac Crenshaw Memorial, RNAV (GPS) RWY 32, Orig
Greenville, AL, Mac Crenshaw Memorial, GPS RWY 14, Orig–A, CANCELLED
Greenville, AL, Mac Crenshaw Memorial, GPS RWY 32, Orig–A, CANCELLED
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 6R, Amdt 1
San Francisco, CA, San Francisco Intl, LDA PRM RWY 28R, Orig, (Simultaneous Close Parallel)
San Francisco, CA, San Francisco Intl, ILS PRM RWY 28L, Orig (Simultaneous Close Parallel)
San Jose, CA, Norman Y. Mineta San Jose Intl, VOR RWY 12R, Amdt 4
San Jose, CA, Norman Y. Mineta San Jose Intl, VOR/DME RWY 30L, Amdt 2
San Jose, CA, Norman Y. Mineta San Jose Intl, VOR–A, Orig, CANCELLED
San Jose, CA, Norman Y. Mineta San Jose Intl, NDB/DME RWY 30L, Amdt 6
San Jose, CA, Norman Y. Mineta San Jose Intl, ILS OR LOC RWY 12R, Amdt 6
San Jose, CA, Norman Y. Mineta San Jose Intl, ILS OR LOC/DME RWY 30L, Amdt 22
San Jose, CA, Norman Y. Mineta San Jose Intl, LOC/DME RWY 30L, Amdt 11A, CANCELLED
Crestview, FL, Bob Sikes, VOR–A, Amdt 12
Crestview, FL, Bob Sikes, NDB RWY 17, Amdt 3
Crestview, FL, Bob Sikes, ILS OR LOC RWY 17, Orig–B
Crestview, FL, Bob Sikes, RNAV (GPS) RWY 35, Orig
Fernandina Beach, FL, Fernandina Beach Muni, RNAV (GPS) RWY 13, Orig
Fernandina Beach, FL, Fernandina Beach Muni, GPS RWY 13, Orig–A, CANCELLED
Augusta, GA, Augusta Regional at Bush Field, RNAV (GPS) RWY 17, Amdt 1
Augusta, GA, Augusta Regional at Bush Field, RNAV (GPS) RWY 35, Amdt 1
Marion, IN, Marion Muni, ILS OR LOC RWY 4, Amdt 7
Marion, IN, Marion Muni, VOR RWY 4, Amdt 13
Marion, IN, Marion Muni, VOR RWY 15, Amdt 10
Marion, IN, Marion Muni, VOR RWY 22, Amdt 16
Marion, IN, Marion Muni, RNAV (GPS) RWY 15, Orig
Marion, IN, Marion Muni, RNAV (GPS) RWY 22, Orig
Marion, IN, Marion Muni, RNAV (GPS) RWY 33, Orig
Owensboro, KY, Owensboro-Daviess County, ILS OR LOC RWY 36, Amdt 11
Owensboro, KY, Owensboro-Daviess County, RNAV (GPS) RWY 5, Orig
Owensboro, KY, Owensboro-Daviess County, RNAV (GPS) RWY 18, Orig
Owensboro, KY, Owensboro-Daviess County, RNAV (GPS) RWY 23, Orig
Owensboro, KY, Owensboro-Daviess County, RNAV (GPS) RWY 36, Orig
Owensboro, KY, Owensboro-Daviess County, NDB RWY 36, Amdt 9
Owensboro, KY, Owensboro-Daviess County, VOR RWY 5, Amdt 1
Owensboro, KY, Owensboro-Daviess County, VOR RWY 18, Amdt 9
Owensboro, KY, Owensboro-Daviess County, VOR RWY 36, Amdt 17
Owensboro, KY, Owensboro-Daviess County, GPS RWY 5, Orig, CANCELLED
Orange, MA, Orange Muni, VOR–A, Amdt 6B
Orange, MA, Orange Muni, NDB RWY 32, Orig
Orange, MA, Orange Muni, NDB OR GPS–B, Amdt 4C, CANCELLED
Minneapolis, MN, Minneapolis-St Paul Intl/Wold Chamberlain, ILS OR LOC RWY 12L, Amdt 6A, ILS RWY 12L (CAT II) Amdt 6A, ILS RWY 12L (CAT III) Amdt 6A
Omaha, NE, Eppley Airfield, ILS OR LOC RWY 32R, Orig; ILS RWY 32R (CAT II), Orig; ILS RWY 32R (CAT III), Orig
Las Vegas, NV, McCarran Intl, ILS OR LOC/DME RWY 1L, Orig
Atlantic City, NJ, Atlantic City International, ILS OR LOC/DME RWY 31, Orig
Tucumcari, NM, Tucumcari Muni, VOR RWY 26, Amdt 6
Buffalo, NY, Buffalo Niagara Intl, ILS OR LOC/DME RWY 32, Orig
Massena, NY, Massena Intl-Richards Field, VOR–A, Orig
Massena, NY, Massena Intl-Richards Field, VOR OR GPS RWY 27, Amdt 4A, CANCELLED
Massena, NY, Massena Intl-Richards Field, VOR/DME RNAV OR GPS RWY 5, Amdt 5A, CANCELLED
Massena, NY, Massena Intl-Richards Field, VOR/DME RNAV OR GPS RWY 23, Amdt 7A, CANCELLED
Massena, NY, Massena Intl-Richards Field, RNAV (GPS) Y RWY 5, Orig
Massena, NY, Massena Intl-Richards Field, RNAV (GPS) Z RWY 5, Orig
Massena, NY, Massena Intl-Richards Field, RNAV (GPS) RWY 9, Orig
Massena, NY, Massena Intl-Richards Field, RNAV (GPS) RWY 23, Orig
Massena, NY, Massena Intl-Richards Field, RNAV (GPS) RWY 27, Orig
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 6R, Amdt 19A, ILS RWY 6R (CAT II) Amdt 19A, ILS RWY 6R (CAT III), Amdt 19A
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) Y RWY 6L, Orig–A, CANCELLED
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 6L, Amdt 1
San Antonio, TX, San Antonio Intl, NDB RWY 12R, Amdt 21
San Antonio, TX, San Antonio Intl, NDB RWY 30L, Amdt 12
San Antonio, TX, San Antonio Intl, VOR/DME RNAV RWY 30L, Amdt 11, CANCELLED
San Antonio, TX, San Antonio Intl, RNAV (GPS) RWY 3, Amdt 1
Charlottesville, VA, Charlottesville-Albemarle, ILS OR LOC RWY 3, Amdt 13
Charlottesville, VA, Charlottesville-Albemarle, NDB RWY 3, Amdt 16

** * * Effective October 28, 2004*

Belleville, IL, Scott AFB/Midamerica, NDB RWY 32L, Orig
Indianapolis, IN, Indianapolis Metropolitan, NDB RWY 15, Amdt 2
Indianapolis, IN, Indianapolis Metropolitan, VOR RWY 33, Amdt 9
Indianapolis, IN, Indianapolis Metropolitan, GPS RWY 33, Orig–A, CANCELLED
Indianapolis, IN, Indianapolis Metropolitan, RNAV (GPS) RWY 15, Orig
Indianapolis, IN, Indianapolis Metropolitan, RNAV (GPS) RWY 33, Orig
Kalamazoo, MI, Kalamazoo/Battle Creek Intl, VOR RWY 5, Orig–B
Hibbing, MN, Chisholm-Hibbing, RNAV (GPS) RWY 22, Orig–A
Oshkosh, WI, Wittman Regional, RNAV (GPS) RWY 36, Amdt 1B

** * * Effective November 25, 2004*

Sandersville, GA, Kaolin Field, VOR/DME–A, Amdt 5
Sandersville, GA, Kaolin Field, RNAV (GPS) RWY 12, Orig
Sandersville, GA, Kaolin Field, RNAV (GPS) RWY 30, Orig
Northwood, ND, Northwood Muni-Vince Fld, RNAV (GPS) RWY 26, Orig
Philadelphia, PA, Philadelphia International, RNAV (GPS) RWY 35, AMDT 1
Philadelphia, PA, Philadelphia International, RNAV (GPS) Y RWY 9R, AMDT 1
Philadelphia, PA, Philadelphia International, RNAV (GPS) Z RWY 9R, AMDT 1
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, RNAV (GPS) RWY 6, Orig
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, RNAV (GPS) RWY 18, Orig
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, RNAV (GPS) RWY 24, Orig
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, RNAV (GPS) RWY 36, Orig
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, NDB RWY 18, Amdt 2

Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, SDF RWY 18, Amdt 4
Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, VOR RWY 6, Orig
Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, VOR RWY 24, Orig
Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, VOR/DME A, Orig, CANCELLED
Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, VOR/DME OR GPS–B, Amdt 3B, CANCELLED
Tullahoma, TN, Tullahoma Regional Arpt/ Wm Northern Field, VOR/DME RNAV OR GPS RWY 36, Amdt 4, CANCELLED

[FR Doc. 04–20060 Filed 9–2–04; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 342

[Docket No. RM93–11–002; Order No. 650]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992

Issued August 27, 2004.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending a certain regulation following a judicial determination that the Commission acted properly in establishing the oil pipeline rate index.

EFFECTIVE DATE: The rule will become effective September 3, 2004.

FOR FURTHER INFORMATION CONTACT: Harris Wood, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; (202) 502–8224.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeen G. Kelly.

Revisions to oil pipeline regulations pursuant to the Energy Policy Act of 1992; Docket No. RM93–11–002.

1. The Federal Energy Regulatory Commission (Commission) is modifying a certain regulation pertaining to oil pipeline ratemaking following a judicial determination upholding the Commission's determination that the appropriate index for oil pipeline rate changes is the Producer Price Index, from and after July 2001.

Background and Discussion

2. On October 22, 1993, in response to the requirements of Title XVIII of the Energy Policy Act of 1992,[1] the Commission issued Order No. 561,[2] in which the Commission comprehensively revised the Commission's regulation of the oil pipeline industry. Among other things, Order No. 561 established a price cap for oil pipeline rates, to be adjusted annually based upon changes in the Producer Price Index for Finished Goods (published each May by the U.S. Department of Labor, Bureau of Labor Statistics) minus one percent (PPI–1). Order No. 561 recognized that its responsibilities under the Interstate Commerce Act,[3] to both shippers and pipelines, required monitoring of the relationship between the change in the selected index and the actual cost changes experienced by the industry. Therefore, the Commission stated that it would review the choice of index every 5 years.[4]

3. On July 27, 2000, the Commission issued a notice of inquiry in Docket No. RM00–11–000 on its five-year review of the oil pricing index.[5] After receiving and considering comments of numerous parties, the Commission affirmed that the PPI–1 index closely approximated the actual cost changes in the oil pipeline industry as reported in FERC Form No. 6, and concluded that this index continued to satisfy the mandates of the Energy Policy Act of 1992.[6] Review of this order was sought by the Association of Oil Pipe Lines (AOPL), and on March 1, 2002, the U.S. Court of Appeals for the D.C. Circuit remanded the proceeding to the Commission for further review and explanation, particularly with respect to the choice of PPI–1 as the appropriate index for future oil pipeline rate changes.[7]

4. Two separate petitions for Commission action on the remand by the Court were filed, one by AOPL, and the other jointly by Sinclair Oil Corporation and Tesoro Refining and Marketing Company (Shippers). AOPL argued for the use of the PPI, while Shippers urged the Commission to reaffirm its decision to use PPI–1, as the appropriate index to measure cost changes in the oil pipeline industry. On February 24, 2003, the Commission issued its order on remand, determining after further cost data analysis that the appropriate oil pricing index for the current five year period should be the PPI.[8] Review of this order was sought by the Shippers, and on April 9, 2004, the Court affirmed the Commission.[9]

5. In view of the Court's finding that the Commission had acted properly in establishing the PPI as the appropriate oil pricing index, the Commission amends 18 CFR part 342, section 342.3(d)(2) by deleting ", and then subtracting 0.01" from the end of that section.

Information Collection Statement

6. There is no need for Office of Management and Budget review[10] under section 3507(d) of the Paperwork Reduction Act of 1995,[11] since this final rule does not affect information collection and recordkeeping requirements.

Environmental Analysis

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[12] However, the Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[13] The clarifying and corrective nature of the change here promulgated qualifies for such an exclusion.[14]

Regulatory Flexibility Act Certification

8. The Regulatory Flexibility Act of 1980 (RFA)[15] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Inasmuch as the change here promulgated reduces the complexity of oil pipeline ratemaking, the change will have no significant economic impact on a substantial number of small entities.

[1] 42 U.S.C.A. 7172 note (West Supp. 1993). References to the Energy Policy Act are to this note, indicating the section number of the statute.

[2] Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, FERC Stats. & Regs. (Regs. Preambles, 1991–1996). ¶ 30,985 (1993); *order on reh'g.*, FERC Stats. & Regs. (Regs. Preambles, 1991–1996) ¶ 31,000; *aff'd.*, Association of Oil Pipe Lines v. Federal Energy Regulatory Commission, 83 F.3d 1424 (D.C. Cir. 1996).

[3] 49 U.S.C. app. 1 (1988).

[4] Order No. 561, ¶ 30,985 at 30,952.

[5] FERC Statutes & Regulations [Notices] ¶ 35,536 (2000).

[6] 93 FERC ¶ 61,266 (2000).

[7] *Association of Oil Pipe Lines* v. *FERC*, 281 F.3d 239 (D.C. Cir. 2002).

[8] 102 FERC ¶ 61,195 (2003).

[9] *Flying J Inc.*, et al. v. *Federal Energy Regulatory Commission*, 363 F. 3d 495 (D.C. Cir. 2004).

[10] 5 CFR 1320.11.

[11] 44 U.S.C. 3507(d).

[12] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[13] 18 CFR 380.4.

[14] 18 CFR 380.4(a)(2)(ii).

[15] 5 U.S.C. 601–612

Accordingly, no regulatory flexibility analysis is required.

Document Availability

9. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's home page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426. The full text of this document is available on the FERC's Home Page at the eLibrary link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

10. User assistance is available for eLibrary and other aspects of the FERC's Web site during normal business hours. For assistance, contact FERC Online Support at *FercOnlineSupport@ferc.gov*, or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Effective Date

11.These regulations are effective immediately, pursuant to 5 U.S.C. 533(b), upon the date of publication in the **Federal Register**. The Commission is issuing this as a final rule without a period for public comment, because under 5 U.S.C. 533(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice or where the agency finds notice and comment unnecessary. Inasmuch as the change promulgated in this proceeding is consistent with a court remand and subsequent affirmance of the Commission's order on remand, and because substantial public comments have already been made on the substance of the change, the Commission finds that further notice and comment are unnecessary. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules does not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

Congressional Notification

12. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a major rule within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[16] The Commission will submit the Final Rule to both Houses of Congress and the General Accounting Office.[17]

List of Subjects in 18 CFR Part 342

Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

■ In consideration of the foregoing, the Commission amends part 342, chapter I, title 18, Code of Federal Regulations, as follows:

SUBCHAPTER P—REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

PART 342—OIL PIPELINE RATE METHODOLOGIES AND PROCEDURES

§ 342.3 [Amended]

■ 1. Part 342, section 342.3(d)(2) is amended by removing the words '', and then subtracting 0.01''.

[FR Doc. 04–20084 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket Nos. 1998N–0337, 1996N–0420, 1995N–0259, and 1990P–0201]

RIN 0910–AA79

Over-the-Counter Human Drugs; Labeling Requirements; Delay of Implementation Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of implementation date of certain provisions.

SUMMARY: The Food and Drug Administration (FDA) is providing a delay of the implementation date for certain products subject to its final rule that established standardized format and content requirements for the labeling of over-the-counter (OTC) drug products (drug facts rule). That final rule requires all OTC drug products to comply with new format and labeling requirements within prescribed implementation periods. The agency intends in a future issue of the **Federal Register** to propose an amendment to the drug facts rule to modify the labeling requirements for OTC sunscreen drug products. This document postpones the implementation date of the drug facts rule as it applies to OTC sunscreen drug products pending the outcome of the future rulemaking.

DATES: *Effective*: October 4, 2004. FDA is delaying the May 16, 2005, implementation date for the drug facts rule (21 CFR 201.66) as it applies to OTC sunscreen drug products (21 CFR part 352) until further notice.

Comment Date: Submit written or electronic comments by December 2, 2004.

ADDRESSES: You may submit comments, identified by Docket Nos. 1998N–0337, 1996N–0420, 1995N–0259, and 1990P–0201 and/or RIN number 0910–AA79, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/docket/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include Docket Nos. 1998N–0337, 1996N–0420, 1995N–0259, and 1990P–0201 and/or RIN number 0910–AA79 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket numbers or regulatory information number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and/or the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

[16] *See* 5 U.S.C. 804(2)(2000).

[17] *See* 5 U.S.C. 801(a)(1)(A)(2000).

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 17, 1999 (64 FR 13254), FDA published a final rule establishing standardized format and standardized content requirements for the labeling of OTC drug products (drug facts rule). Those requirements are codified in § 201.66.

Section 201.66(a) states that the content and format requirements in § 201.66 apply to the labeling of all OTC drug products. In the drug facts rule and in subsequent documents, FDA provided different dates by which OTC drug products had to comply with the new requirements. These dates varied according to the regulatory status of the products (64 FR 13254 at 13273 and 13274).

A. Compliance Dates for the Drug Facts Rule

1. Products in the OTC Drug Review

Products for which a final monograph (FM) became effective on or after April 16, 1999, had to comply "as of: (1) The applicable implementation date for that final monograph, (2) the next major revision to any part of the label or labeling after April 16, 2001, or (3) April 18, 2005, whichever occurs first." Combination drug products in which one or more active ingredients were the subject of an FM, and one or more ingredients were still under review as of the effective date of the drug facts rule, had to comply as of the implementation date for the last applicable FM for the combination, or as of April 16, 2001, whichever occurred first. Combination products in which none of the active ingredients was the subject of an FM or monographs as of the effective date of the drug facts rule had to comply "as of: (1) The implementation date of the last applicable final monograph for the combination, (2) the next major revision to any part of the label or labeling after April 16, 2001, or (3) April 18, 2005, whichever comes first."

2. Products Marketed Under NDAs and ANDAs

Products that were the subject of a drug application (NDA or ANDA) that was approved before April 16, 1999, had to comply with the drug facts rule as of April 16, 2001. Products that became the subject of an approved NDA or ANDA on or after April 16, 1999, were required to comply with the drug facts rule at the time of approval (64 FR 13254 at 13274).

3. Additional Provisions

In addition, any OTC drug product not described in sections I.A.1 and I.A.2 of this document had to comply with the drug facts rule "as of: (1) The next major revision to any part of the label or labeling after April 16, 2001, or (2) April 18, 2005, whichever occurs first."

B. Correction Document

In the **Federal Register** of April 15, 1999 (64 FR 18571), FDA published a correction to the drug facts rule and changed its effective date from April 16, 1999, to May 16, 1999. While FDA did not explicitly discuss the implementation plan and compliance dates for the drug facts rule, the correction had the effect of changing the compliance dates for the drug facts rule as follows: (1) The April 16, 1999, compliance date became May 16, 1999; (2) the April 16, 2001, compliance date became May 16, 2001; and (3) the April 18, 2005, compliance date became May 16, 2005.

C. Partial Extension

In the **Federal Register** of June 20, 2000 (65 FR 38191), FDA published a partial extension of compliance dates for the drug facts rule. FDA extended the May 16, 2001, date to May 16, 2002 (and the corresponding May 16, 2002, date for products with annual sales of less than $25,000 to May 16, 2003). The May 16, 2005, date was not changed. FDA did not extend the date for products marketed under an NDA or ANDA approved after May 16, 1999. FDA also made one minor change in the implementation chart that appeared in the drug facts rule (64 FR 13254 at 13274). That change involved combination products subject to an OTC drug monograph or monographs in which at least one applicable monograph was finalized before May 16, 1999, and at least one applicable monograph was finalized on or after May 16, 1999. The final rule had stated the compliance date for such products as "Within the period specified in the last applicable monograph to be finalized, or by May 16, 2002 (or by May 16, 2003, if annual sales of the product are less than $25,000), whichever occurs first." FDA recognized that some final monographs may be finalized close to the May 16, 2002, date. If that occurred, relabeling might be required at two closely related time intervals by two different final rules. FDA added that it would be aware of that possibility when the last applicable monograph is published and would make allowance there to avoid this dual relabeling within a short time period. Therefore, at the end of the time period for this specific type of combination product in the implementation chart, FDA added the words "unless the last applicable monograph to be finalized specifies a later date." The restated implementation chart can be found at 65 FR 38191 at 38193. FDA concluded that this additional language should alleviate any possible ambiguities that might have existed about when relabeling required by two different rules would have to occur. A similar concept applies to FDA's delay of the drug facts rule for OTC sunscreen drug products discussed in section III of this document.

II. Stay of the FM for OTC Sunscreen Drug Products

In the **Federal Register** of May 21, 1999 (64 FR 27666), FDA published the FM for OTC sunscreen drug products in part 352. In the **Federal Register** of December 31, 2001 (66 FR 67485), FDA stayed that final rule until further notice. FDA issued that partial stay because it intends to propose amendments to part 352 that address both ultraviolet A and ultraviolet B radiation protection. FDA stated that because the agency has not yet published the proposed amendment to part 352, it is not possible for manufacturers of OTC sunscreen drug products to relabel and test their products in accord with an amended FM by the, then current, effective date of December 31, 2002. Accordingly, FDA stayed part 352 until further notice could be provided in a future issue of the **Federal Register**. FDA added that it anticipated the new effective date would not be before January 1, 2005. The future document will contain proposed amendments to the drug facts labeling currently included in part 352 for OTC sunscreen drug products. At this time, FDA has not completed the proposed amendment of the sunscreen FM discussed in the December 31, 2001, stay.

III. FDA's Delay of the Drug Facts Rule for OTC Sunscreen Drug Products

FDA has determined that a final amendment of the sunscreen FM will not be completed by the May 16, 2005, final implementation date for the OTC drug facts rule. FDA hopes to publish the final amendment of the sunscreen FM shortly after the May 16, 2005, implementation date. Thus, to avoid dual relabeling that might be required at two closely related time intervals by two different final rules, FDA believes the final implementation date for the OTC drug facts rule should also be concurrently delayed as it applies to OTC sunscreen drug products. For these reasons, FDA is delaying the May 16, 2005, implementation date for the drug facts rule as it applies to OTC sunscreen drug products until further notice. The

new implementation date for these products will be coordinated with the lifting of the stay for OTC sunscreen drug products covered by part 352.

The delay in the implementation date for OTC sunscreen drug products will remain in effect until FDA publishes an amended FM and provides a new compliance date or until FDA issues further notice. In either case, the delay enables manufacturers of these products to continue marketing them in their present labeling formats pending completion of the amended FM. The labeling of these products still needs to comply with the Federal Food, Drug, and Cosmetic Act (the act) and other applicable regulatory requirements. Notwithstanding this delay in the implementation date, manufacturers who wish to do so may still relabel the affected products in the drug facts format, particularly when existing labeling is exhausted and relabeling would occur in the normal course of business.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(3)(A). Alternatively, FDA's implementation of this action without opportunity for public comment comes within the good cause exceptions in 5 U.S.C. 553(b)(3)(B) in that obtaining public comment is impracticable, unnecessary, and contrary to the public interest. FDA is delaying the compliance date of § 201.66 for OTC sunscreen drug products because it intends to amend the FM for those products in the near future. That amendment will propose a new compliance date for those products to implement § 201.66 and provide an opportunity to comment on this new date. In addition, given the imminence of the current implementation date, seeking prior public comment on this delay is contrary to the public interest in the orderly issuance and implementation of regulations. Notice and comment procedures in this instance would create uncertainty, confusion, and undue financial hardship because, during the time that FDA would be proposing to extend the implementation date for § 201.66, those companies affected would have to be preparing to relabel to comply with the May 16, 2005, implementation date. In accordance with 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on whether this delay should be modified or revoked.

IV. Delay of May 16, 2005, Implementation Date for Other OTC Drug Products

FDA is not delaying the May 16, 2005, implementation date for the drug facts rule for any other OTC drug products in this document. In a restated implementation chart for the drug facts rule published in the **Federal Register** of April 5, 2002 (67 FR 16304 at 16306 to 16307), FDA stated different dates by which OTC single entity or combination drug products had to comply with the drug facts rule when OTC drug monographs were finalized after May 16, 1999. In all cases, the final implementation date was May 16, 2005, unless an FM specifies a different time period. At this time, no FM has specified a different time period. FDA intends that all OTC drug products comply with the May 16, 2005, implementation date for the drug facts rule even if a final OTC drug monograph has not issued for a specific drug product class. The only other exceptions are as follows: (1) OTC sunscreen drug products discussed in this document and (2) OTC "convenience-size" drug products discussed in the April 5, 2002, partial delay of compliance dates for labeling requirements for OTC human drugs.

V. Analysis of Impacts

The economic impact of the drug facts rule was discussed in the final rule (64 FR 13254 at 13276 to 13285). This partial delay of the May 16, 2005, implementation date for OTC sunscreen drug products provides additional time for companies to relabel certain products to comply with an amended FM, to be published in a future issue of the **Federal Register**. This delay will also reduce label obsolescence as companies will have additional time to use up more existing labeling. Thus, delaying the implementation date for these specific products will significantly reduce the economic impact of the final rule on manufacturers of these products.

FDA has examined the impacts of this final rule (partial delay of the compliance date) under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). 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).

Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year."

FDA concludes that this final rule is consistent with the principles set out in Executive Order 12866 and in these two statutes. This final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order. As discussed in this section, FDA has determined that this final rule will not have a significant economic impact on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this final rule because the final rule is not expected to result in any 1-year expenditure that would meet or exceed $100 million adjusted for inflation. The current threshold after adjustment for inflation is about $110 million.

The purpose of this final rule is to provide a partial delay of the May 16, 2005, implementation date by which manufacturers need to relabel their OTC sunscreen drug products. Accordingly, under the Regulatory Flexibility Act, FDA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. No further analysis is required.

VI. Paperwork Reduction Act of 1995

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

VII. Environmental Impact

FDA has determined under 21 CFR 25.31(a) 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.

VIII. 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, FDA has concluded that the 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.

IX. 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 or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket numbers found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

X. Authority

This final rule (partial delay of compliance date) is issued under sections 201, 501, 502, 503, 505, 510, and 701 of the act (21 U.S.C. 321, 351, 352, 353, 355, 360, and 371) and under authority of the Commissioner of Food and Drugs.

Dated: July 30, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–18842 Filed 9–2–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9137]

RIN 1545–BA81

Partnership Transactions Involving Long-Term Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 9137) that were published in the **Federal Register** on Friday, July 16, 2004 (69 FR 42551) relating to partnership transactions involving contracts accounted for under a long-term contract method of accounting.

DATES: This correction is effective July 16, 2004.

FOR FURTHER INFORMATION CONTACT: Richard Probst at (202) 622–3060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 460 of the Internal Revenue Code.

Need for Correction

As published, TD 9137 contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9137), which was the subject of FR Doc. 04–15833, is corrected as follows:

§ 1.1362–3 [Corrected]

■ 1. On page 42559, column 2, § 1.1362–3, Par. 14., second line, the language, "by adding a sentence is at the end of" is corrected to read "by adding a sentence at the end of".

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. 04–20166 Filed 9–2–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1129–I]

RIN 1120–AB29

Over-The-Counter (OTC) Medications: Technical Correction

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim final rule.

SUMMARY: This document makes a minor technical correction to the Bureau of Prisons (Bureau) regulations on Over-The-Counter (OTC) medications. Previously, our rule defined an inmate without funds as one who has had an average daily trust fund account balance of less than $6.00 for the past 30 days. The words "average daily" in that definition resulted in incorrect classifications by the Bureau's business offices. The more accurate definition of an inmate without funds is one who has not had a trust fund account balance of $6.00 for the past 30 days. We therefore issue this technical correction.

DATES: This rule is effective September 3, 2004. Comments are due by November 2, 2004.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. Our e-mail address is *BOPRULES@BOP.GOV*.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: We amend our regulations on Over-The-Counter (OTC) medications (28 CFR part 549, subpart B). We published a final rule on this subject in the **Federal Register** on August 12, 2003(68 FR 47847).

Previously, our rule defined an inmate without funds as one who has had an average daily trust fund account balance of less than $6.00 for the past 30 days. The words "average daily" in that definition resulted in incorrect classifications by the Bureau's business offices. The more accurate definition of an inmate without funds is one who has not had a trust fund account balance of $6.00 for the past 30 days. We therefore issue this technical correction.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553) allows exceptions to notice-and-comment rulemaking "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

This rulemaking is exempt from normal notice-and-comment procedures because it makes a minor technical correction in the wording of a definition. This change does not change the substance or application of the definition. This rulemaking makes no change to any rights or responsibilities of the agency or any regulated entities. Because this minor change is of a practical nature, normal notice-and-comment rulemaking is unnecessary. The public may, however, comment on this rule change because it is an interim final rule.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, *under* the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 549

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 549 as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 549—MEDICAL SERVICES

■ 1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

Subpart B—Over-The-Counter (OTC) Medications

■ 2. Revise § 549.31(a) to read as follows:

§ 549.31 Inmates without funds.

(a) The Warden must establish procedures to provide up to two OTC medications per week for an inmate without funds. An inmate without funds is an inmate who has not had a trust fund account balance of $6.00 for the past 30 days.

* * * * *

[FR Doc. 04–20097 Filed 9–2–04; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–04–031]

RIN 1625–AA09

Drawbridge Operation Regulation; Massalina Bayou, Panama City, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

SUMMARY: The Commander, Eighth Coast Guard District, has temporarily changed the regulation governing the operation of the Tarpon Dock bascule span drawbridge across Massalina Bayou, mile 0.0, at Panama City, Bay County, Florida. The regulation will allow the draw of the bridge to remain closed to navigation for one hour to facilitate the American Heart Walk.

DATES: This temporary rule is effective from 9 a.m. to 10 a.m. on October 30, 2004.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130–3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Thousands of pedestrians will cross the bridge during the event and this temporary rule is necessary to ensure their safety as they cross the bridge. Additionally, the event will only impact the waterway users for one hour and will open for vessels in distress.

Background and Purpose

The City of Panama City has requested a temporary rule changing the operation of the Tarpon Dock bascule span drawbridge across Massalina Bayou, mile 0.0, in Panama City, Bay County, Florida. This temporary rule is needed to accommodate approximately 2,000 pedestrians that are expected to participate in a 3.5-mile walk. The bridge is near the beginning of the walk and allowing the bridge to open for navigation during this short time period would disrupt the event and could result in injury. The bridge has a vertical clearance of 7 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists primarily of commercial fishing vessels, sailing vessels and other recreational craft. Presently, Title 33, Code of Federal Regulations (CFR), Part 117.301 states: The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0, shall open on signal; except that from 9 p.m. until 11 p.m. on July 4, each year, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress. This temporary rule will allow the bridge to be maintained in the closed-to-

navigation position from 9 a.m. to 10 a.m. on October 30, 2004 to facilitate the American Heart Walk.

Regulatory Evaluation

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

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

This temporary rule will be only one hour in duration and is therefore expected to have only a minor affect on the local economy.

Small Entities

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

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the Tarpon dock bridge across Massalina Bayou during the closure. There is not expected to be a significant impact due to the short duration of the closure and the publicity given the event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the 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 cause an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation because

it modifies an existing bridge operation regulation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Effective 9 a.m. until 10 a.m. on October 30, 2004, § 117.301 is temporarily suspended and a new § 117.T302 is added to read as follows:

§ 117.T302 Massalina Bayou.

The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0, shall open on signal; except that from 9 a.m. until 10 a.m. on October 30, 2004, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress.

Dated: August 19, 2004.

R.F. Duncan,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 04–20118 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900–AL77

Board of Veterans' Appeals: Obtaining Evidence and Curing Procedural Defects

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as final the proposed rule amending the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals (Board). The final rule removes the Board's authority to develop evidence for initial consideration unless the appellant or appellant's representative waives the right to initial review by the agency of original jurisdiction of new evidence received by the Board. The final rule also redefines "agency of original jurisdiction" to refer to the Veterans Benefits Administration, Veterans Health Administration, or National Cemetery Administration, depending upon the origin of the appealed decision. This rulemaking is required to simplify the appellate process and to conform to a recent decision from the United States Court of Appeals for the Federal Circuit.

DATES: *Effective date:* October 4, 2004.

Applicability date: The amendments in this final rule will apply to appeals pending before the Board on the effective date of this final rule and to all appeals for which a notice of disagreement is filed on or after the effective date of this final rule.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (01C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals is the component of the Department of Veterans Affairs (VA) in Washington, DC, that decides appeals from denials of claims for veterans' benefits.

On December 11, 2003, VA published in the **Federal Register** (68 FR 69062), a notice of proposed rulemaking to remove the Board's authority to develop evidence for initial consideration. The proposed rule would require the Board, with certain exceptions, to remand an appeal to the agency of original jurisdiction (AOJ) when there is a need to obtain evidence, clarify the evidence, correct a procedural defect, or take any other action deemed essential for a proper appellate decision. The proposed rule would also provide that the Board may consider additional evidence in the first instance, without remand to the AOJ, when the appellant or appellant's representative waives this procedural right. In addition, the proposed rule would redefine "agency of original jurisdiction" to refer to the broad administrative body within VA that governs the office from which the decision on appeal originated. As set forth in the proposed rule, we are adopting the proposed rule as a final rule without change.

We received one comment from a veterans' service organization opposing the amendments in the proposed rule. We do not agree with the commenter's objections.

The veterans' service organization suggests that the proposed rule amending 38 CFR 20.903 and 20.1304(b)(2), insofar as it relates to the Board's consideration of medical opinions obtained by the Board from the Veterans Health Administration (VHA) pursuant to 38 CFR 20.901, exceeds the Board's authority under 38 U.S.C. 7109 and, therefore, is unlawful. This comment actually concerns an interim final rule amending 38 CFR 20.901 (specifically, section 20.901(a) authorizing Board requests for medical opinions from the VHA), which was published on July 23, 2001, in the **Federal Register** (66 FR 38158). This particular comment is more appropriately addressed at length in the final rulemaking notice amending 38 CFR 20.901, which has been published recently in the **Federal Register**.

The commenter's statements specific to the amendments finalized in this document concern 38 CFR 20.903 and 20.1304(b)(2). In 38 CFR 20.903(a), the second sentence is revised to require that a medical opinion obtained by the Board be provided to the appellant and his or her representative, if any, rather than to just the representative. With regard to 38 CFR 20.1304(b)(2), the changes are not substantive and involve removing references to "paragraph (b) or (c)" and replacing those references with "paragraph (a) or (b)." Since these changes are not relevant to the commenter's concerns, we decline to make changes based on this comment. Accordingly, the proposed rule is adopted as a final rule without change.

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 proposed rule would have no such effect on State, local, or tribal governments, or the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies 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. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Paperwork Reduction Act

The Secretary hereby certifies that this final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

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

List of Subjects in 38 CFR Parts 19 and 20

Administrative practice and procedure, Claims, Veterans.

Approved: May 3, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR parts 19 and 20 are amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

■ 1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

Subpart A—Operation of the Board of Veterans' Appeals

■ 2. Section 19.9 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 19.9 Remand for further development.

(a) *General.* If further evidence, clarification of the evidence, correction of a procedural defect, or any other action is essential for a proper appellate decision, a Veterans Law Judge or panel of Veterans Law Judges shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken.

(b) *Exceptions.* A remand to the agency of original jurisdiction is not necessary for the purposes of:

(1) Clarifying a procedural matter before the Board, including the appellant's choice of representative before the Board, the issues on appeal, or requests for a hearing before the Board;

(2) Consideration of an appeal, in accordance with § 20.903(b) of this chapter, with respect to law not already considered by the agency of original jurisdiction. This includes, but is not limited to, statutes, regulations, and court decisions; or

(3) Reviewing additional evidence received by the Board, if, pursuant to § 20.1304(c) of this chapter, the appellant or the appellant's representative waives the right to initial consideration by the agency of original jurisdiction, or if the Board determines that the benefit or benefits to which the evidence relates may be fully allowed on appeal.

* * * * *

Subpart B—Appeals Processing by Agency of Original Jurisdiction

§ 19.38 [Amended]

■ 3. Section 19.38 is amended by removing "the Board and" from the third sentence.

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

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

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

■ 5. Section 20.3 is amended by revising paragraph (a) to read as follows:

§ 20.3 Rule 3. Definitions.

* * * * *

(a) *Agency of original jurisdiction* means the Department of Veterans Affairs activity or administration, that is, the Veterans Benefits Administration, Veterans Health Administration, or National Cemetery Administration, that made the initial determination on a claim.

* * * * *

■ 6. Section 20.903 is amended by:
■ a. Revising the second sentence in paragraph (a);
■ b. Removing paragraph (b);
■ c. Redesignating paragraph (c) as paragraph (b); and
■ d. Revising the first sentence in newly redesignated paragraph (b).

The revisions read as follows:

§ 20.903 Rule 903. Notification of evidence secured and law to be considered by the Board and opportunity for response.

(a) * * * When the Board receives the opinion, it will furnish a copy of the opinion to the appellant, subject to the limitations provided in 38 U.S.C. 5701(b)(1), and to the appellant's representative, if any. * * *

(b) * * * If, pursuant to § 19.9(b)(2) of this chapter, the Board intends to consider law not already considered by the agency of original jurisdiction and such consideration could result in denial of the appeal, the Board will notify the appellant and his or her representative, if any, of its intent to do so and that such consideration in the first instance by the Board could result in denial of the appeal. * * *

■ 7. Section 20.1304 is amended by:
■ a. In paragraphs (a) and (b)(1)(ii), removing "paragraph (c)" from each, and adding, in each place, "paragraph (d)".
■ b. In paragraph (b)(2), removing "paragraph (b) or (c)" each place it appears, and adding, in each place, "paragraph (a) or (b)".
■ c. Redesignating paragraph (c) as paragraph (d).
■ d. Adding new paragraph (c).
■ e. In newly designated paragraph (d), adding a new sentence immediately after "additional evidence in rebuttal."

The additions read as follows:

§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

* * * * *

(c) *Consideration of additional evidence by the Board or by the agency of original jurisdiction.* Any pertinent evidence submitted by the appellant or representative which is accepted by the Board under the provisions of this section, or is submitted by the appellant or representative in response to a § 20.903 of this part, notification, as well as any such evidence referred to the Board by the agency of original jurisdiction under § 19.37(b) of this chapter, must be referred to the agency of original jurisdiction for review, unless this procedural right is waived by the appellant or representative, or unless the Board determines that the benefit or benefits to which the evidence relates may be fully allowed on appeal without such referral. Such a waiver must be in writing or, if a hearing on appeal is conducted, the waiver must be formally and clearly entered on the record orally at the time of the hearing. Evidence is not pertinent if it does not relate to or have a bearing on the appellate issue or issues.

(d) * * * For matters over which the Board does not have original jurisdiction, a waiver of initial agency of original jurisdiction consideration of pertinent additional evidence received by the Board must be obtained from each claimant in accordance with paragraph (c) of this section. * * *

[FR Doc. 04–19693 Filed 9–2–04; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Standards Governing the Design of Wall-Mounted Centralized Mail Receptacles

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule replaces United States Postal Service® (USPS®) Standard 4B, *Receptacles, Apartment House, Mail,* which governs the design of wall-mounted centralized mail receptacles whether utilized in commercial, residential, mixed

residential or other types of structures. The new standard was developed through a consensus process and was agreed to by a committee of representatives from mailbox manufacturers; mailbox distributors; mailbox installers and servicers; Postal Service customers; multi-unit residential and commercial property builders, owners, and managers; and the Postal Service™. In addition, *Domestic Mail Manual* (DMM™) standards provide manufacturers and customers with notice of the specifications.

EFFECTIVE DATE: October 4, 2004.

FOR FURTHER INFORMATION CONTACT: Stephen A. Landi, (202) 268–2198.

SUPPLEMENTARY INFORMATION: As justification for changes to Standard 4B, the Postal Service presented the committee with evidence of changing customer mailing habits and specific mail and package volume trends. Postal Service statistics indicate customers receive more mail and of varying sizes today than at the time of the last updated standard. A new standard would provide designed receptacles with increased protection for the mail, benefiting both senders and addressees; would improve the overall safety of the equipment in use; should reduce maintenance costs incurred by buildings; and would result in cleaner lobbies with less clutter. Finally, the newly designed receptacle would be easier to access and serve by carriers, thereby helping to reduce Postal Service costs.

In a proposed rule published in the **Federal Register** on April 21, 2004 [69 FR 21455], the Postal Service proposed to replace United States Postal Service Standard 4B, *Receptacles, Apartment House, Mail,* with a new standard, designated United States Postal Service Standard 4C, *Wall-Mounted Centralized Mail Receptacles.* The proposal also included new provisions in the *Domestic Mail Manual* (DMM) to provide manufacturers and customers notice of the new standard. The Postal Service received four comments. After thorough consideration of the issues raised in these comments, and for the reasons discussed below, the Postal Service adopts the rules as proposed.

As discussed in the proposal, a Postal Service Apartment Mailbox Consensus Committee, which included representatives of mailbox manufacturers; mailbox distributors; mailbox installers and servicers; Postal Service customers; multi-unit residential and commercial property builders, owners, and managers; and the Postal Service, developed the new standard through a consensus process. The members of the committee met six times as an advisory group and negotiated among themselves and with the Postal Service to reach a consensus on a new standard. Committee members were selected for the purpose of, and accepted the responsibility for, representing other interested individuals and organizations that were not present at committee meetings and to keep them informed of the committee's proceedings. As part of the consensus process, the Postal Service agreed to use a recommendation by the committee as the basis of the revised standard.

Standard 4C represents the committee's recommendation. With one exception, each member of the committee signed the final agreement recommending adoption of this standard. That one committee member, a builders association, though supportive of the process and generally in concurrence with the new standard, declined to sign the agreement because a provision of the adopted standard establishes a minimum ratio of parcel lockers to customer compartments. This committee member stated its concerns in a comment submitted on the proposed rule, which the Postal Service will address with the other comments received.

The current standard, adopted in 1975, prescribes design limitations that are no longer consistent with the operational requirements of the Postal Service. The revised Standard 4C is consistent with the day-to-day use of the mail by Postal Service customers, addresses the operational needs of the Postal Service, and provides security for mail through improved design of the equipment. The previous standard was entitled *United States Postal Service Standard 4B, Receptacles, Apartment House, Mail.* The revised standard is entitled *United States Postal Standard 4C, Wall-Mounted Centralized Mail Receptacles.* The Postal Service made the change in the title solely to reflect that the standard applies to receptacles in a variety of residential and commercial buildings, and not only "apartments." The final rule does not result in any change in Postal Service policies concerning the purchase of this delivery equipment or the provision of delivery equipment for Postal Service customers previously in effect under Standard 4B.

The new standard does the following:

1. Creates a new form factor and increases the minimum size requirement to 12″w × 15″d × 3″h.

2. Introduces 12 suggested design types. **Note:** The allowable design types are not limited to these 12, which we present only as possible compartment configurations.

3. Eliminates the vertical form factor (5″w × 6″d × 15″h) design. The letter carrier delivers mail into the receptacle through the top of the receptacle down into the customer compartment.

4. Introduces a parcel locker requirement based on a 1:10 parcel locker to customer compartment ratio.

5. Strengthens security requirements for the entire receptacle.

6. Standardizes and improves tenant compartment customer lock design.

7. Adds testing requirements to verify acceptability for either indoor or outdoor use.

8. Incorporates a preliminary review by Postal Service engineers intended to identify design discrepancies before manufacturers build prototypes and make tooling investments.

9. Allows manufacturers to submit their designs to approved independent laboratories for initial environmental and functional testing. The Postal Service will perform security tests.

10. Introduces quality management systems provisions.

11. Enhances design flexibility for concept, ergonomics, and materials.

12. Meets Americans with Disabilities Act (ADA) standards.

13. Provides a progressive phase-in period to allow consumers to become aware of the new standard and include it in development plans.

Analysis of Comments

The Postal Service received four comments in response to the proposal. Two commenters, a building material supplier and a trade association of builders that was a member of the consensus committee, submitted comments.

The two individual commenters expressed a concern that the committee did not include any party representing the interests of individual apartment residents. However, in establishing the committee, the Postal Service attempted to assure representation of all interests. Before the selection of the committee, the Postal Service chose a facilitator who attempted to identify all interests and secure a suitable representative for each. The Postal Service also published a notice in the **Federal Register** and other publications announcing its intention to revise this mailbox standard, employing a negotiated rulemaking process, and identifying those whom it planned to invite. The notice encouraged any member of the public who believed he/she was not adequately represented to seek committee membership. The Postal Service received no applications by

representatives from the "general public". After the committee convened, the Postal Service and the committee facilitator continued to seek out representatives of apartment and condominium dwellers. Some apartment and condominium residents attended meetings and participated actively, but chose not to serve as committee members. Further, the Postal Service ensured that all committee meetings were open to the public, and that every individual who expressed any interest in wall-mounted centralized mail receptacles received notice of meetings and copies of all relevant documents in advance.

Moreover, even though none of the committee members directly represented apartment residents, members shared some of the substantive concerns expressed by the individual commenters. For example, building managers, owners, and builders shared the concern for affordable receptacles; and Postal Service customers shared the concern that the receptacles should be secure and large enough to allow mail delivery without damage.

Two commenters noted issues with retrofitting; *i.e.* replacement of receptacles that met the specifications in effect at the time of their installation with receptacles that meet the specifications in Standard 4C. The committee discussed retrofitting at length from the first meeting until near the midpoint of the meetings, at which time members reached consensus on how to address retrofitting concerns. These discussions generally contrasted the benefits of retrofitting against the costs of purchasing new receptacles and, in some cases, making structural alterations necessary to accommodate those boxes. Committee members also raised concerns involving building codes, waivers, historical buildings, and objective standards that might trigger a retrofitting requirement. The committee agreed that building owners and property managers might retrofit voluntarily; and that such voluntary retrofits might be encouraged. However, the new standard imposes no general retrofit requirement.

One commenter raised the concern that Postal Service officials might allow the use of non-Postal Service-approved mail receptacles. However, the standard did not change the general and longstanding requirement that, in order to receive delivery service, the Postal Service must approve the delivery equipment provided by the customer.

One commenter objected to the requirement that parcel lockers be provided. It questioned the Postal Service's authority to require the installation of these receptacles and asserted the opinion that this requirement would give the Postal Service an advantage over other parcel delivery companies that cannot require buildings to provide such receptacles.

The Postal Service does not, of course, require its customers to provide receptacles. Rather, it establishes the type of equipment that customers, including multi-unit residential and commercial structures, must provide if they wish to receive postal delivery service. Moreover, the new standard does not invariably require the installation of parcel lockers when receptacles meeting the requirements of Standard 4C are installed. There are certain buildings that will be exempt from the requirement (*i.e.*, buildings with relatively few units). Moreover, to be exempt from the requirement, buildings may provide an alternative procedure for delivery of parcels.

The parcel locker requirement is consistent with the Postal Service's statutory responsibility to provide an efficient system for the delivery and collection of mail (39 U.S.C. 403(b)(1)). Although the receptacles are commonly called "parcel lockers," the Postal Service will use them for more than the delivery of parcels. For example, for delivering mail held pursuant to a customer's request during the period while a customer is absent, and for periodically delivering mail to customers whose volume exceeds the size of their assigned receptacle. Accordingly, they will be used for a broader variety of matter than that generally delivered by parcel delivery companies and will save the Postal Service the time and expense needed to attempt redelivery of mail, and customers the time and expense of trips to a Postal Service facility to retrieve mail that could not be delivered.

However, even if the parcel lockers were only used for parcels, the adoption of the parcel locker requirement would be fair. The commenter observed that the cost of the receptacles will ultimately be passed on by building owners to residents. Therefore, the residents would ultimately bear the costs of their mail delivery, which also seems fair. The alternative would be that the Postal Service incur the costs and pass them on to all customers, through postal rates, even though they may not be residents of multi-unit structures. Parcel delivery companies would also pass their costs on, through the rates they charge, to the specific customers that use their services rather than to all residents of the country.

Two commenters raised as an issue the changes in the size of the customer compartment, coupled with the parcel locker requirement, and the resulting increase in the "footprint" for the equipment. The committee recognized that increased size would present challenges and create pressures on lobby size, architectural design, industry education, and construction costs. The committee debated these factors and reached compromises that address those concerns by allowing buildings currently under design, as well as buildings just beginning construction, time for approval of plans without requiring modifications. The committee established a timeline for mandatory compliance in new construction, at 2 years from the publication of the final rule. This timeline allows committee members and the Postal Service time to educate the public and members and employees of their respective organizations of the provisions of the Standard 4C. Moreover, as briefly noted above, the standard does not require parcel lockers in buildings with less than 10 customer compartments, and establishes the parcel locker to customer compartment ratio at 1:10 in buildings with more than 10 customer compartments. The standard provides that postmasters shall consider and may excuse buildings from the need to provide parcel lockers if they have an agreement in place with the building owners or property managers that establishes an alternate parcel delivery service (*e.g.*, concierge service or acceptance at the building management office). The standard allows flexibility in the location of parcel lockers (subject to local approval) if not fully integrated in the mail receptacle or if located adjacent to customer compartments. The standard also recognizes that some commercial and residential buildings provide receptacles for tenants that exceed the minimum size requirements and can accommodate parcels.

Commenters also addressed the potentially increased cost of new receptacles to property owners/managers and the possibility of property owners/managers passing these cost increases on to their tenants. The committee included manufacturers of apartment mailboxes who estimated increases in cost for materials, components, and tooling would vary between 15 and 30 percent over current costs depending on many factors including the size and abilities of the manufacturer, the materials and components they use to manufacture mail receptacles, and market conditions. One commenter questioned whether these estimates were accurate, although

it did not provide any information suggesting the estimates are inaccurate. Another commenter alleged that the costs might increase by a factor of "ten to twelve times," questioning whether the resultant costs were worth the benefits that would result from the new standards, but did not provide evidence to support its cost estimates. The Postal Service does not have any basis to believe the committee's cost estimates understate the future price increases for receptacles meeting the Standard 4C requirements, and believes the benefits will justify the changes.

One commenter questioned the need for upgraded security for delivery equipment. This commenter felt the security level of current boxes was sufficient, a position not supported by the committee nor the Postal Service. USPS Engineering and the Postal Inspection Service demonstrated that better equipment would improve the security of personal information from identity theft. They provided historical documentation of mail theft and demonstrated proven methods of attacks on mail equipment. From 2000 to 2002, Inspection Service statistics indicate that reported attacks on wall-mounted boxes increased from 988 in FY 2000 to 2,819 in FY 2002. While it is not economically feasible to require equipment that will protect receptacles against all potential attacks, this final rule provides equipment that will increase mail security and help to reduce the incidences of theft. This effort is consistent with other ongoing Postal Service initiatives to improve mail security and customer ease of use in mail delivery equipment.

A commenter also asked whether the Postal Service would supply these receptacles to customers and whether there would be more than two authorized suppliers. As explained above, this rulemaking will not result in any changes in Postal Service policies concerning the provision of delivery equipment. Rather, owners/managers of multi-unit buildings will remain responsible for the provision of wall-mounted centralized mail receptacles required for delivery service. Moreover, the rule does not establish any limit on the number of manufacturers authorized to manufacture and distribute receptacles meeting the specifications of Standard 4C; any manufacturers (currently six) that meet the specifications may apply for and receive an authorization to produce and distribute such boxes.

Approval Process for Receptacles

In order to be eligible for Postal Service carrier mail delivery, the Postal Service must approve the boxes. In order to receive approval under Standard 4C, the manufacturer must submit the receptacle(s), along with the supporting materials listed in section 6 of the standard, to the Postal Service at the following address:

Attn: Delivery and Retail Systems, USPS Engineering, 8403 Lee Hwy, Merrifield Va 22082–8101.

Re-Approval of Standard Receptacles, Apartment House, Mail USPS STD 4B+

The re-approval process for manufacturers with mailbox designs that were approved before the final publication date of Standard 4C will be conducted as follows: (The approval process for all other wall-mounted receptacle designs will be conducted in accordance with section 6 of Standard 4C.)

1. The Postal Service will permit, for 180 days after publication in the **Federal Register** of the final rule, current Postal Service Standard 4B-approved equipment for new installations or as replacement for existing boxes. After the 180-day period has elapsed, the Postal Service will no longer authorize the distribution and installation of equipment approved under Standard 4B or install Arrow locks in this equipment.

2. Only manufacturers with current, Postal Service-approved Standard 4B designs may submit design and product for recertification to Standard 4B+.

3. The Postal Service will notify currently approved manufacturers within two (2) business days after final publication of Standard 4C in the **Federal Register** that they may submit their equipment for recertification. The Postal Service will provide a copy of Standard 4B+ Change Notice #2, which outlines the Standard 4B+ requirements. All equipment must be submitted to: Attn: Delivery and Retail Systems, USPS Engineering, 8403 Lee Highway, Merrifield, Va 22082–8101.

4. Manufacturers will have 60 days after receipt of this notification to submit a written response to USPS Engineering of their intent to submit equipment for recertification to Standard 4B+.

5. Manufacturers who have properly notified the Postal Service of their intent to manufacture equipment to Standard 4B+ under step 4 have 365 days from the date of publication of the final rule to gain the necessary approval for the receptacle under Standard 4B+. However, a vendor may not make an additional submission until it has received a decision from the Postal Service on a pending submission. A vendor may make unlimited submissions within the 365-day period. USPS Engineering will respond to each submittal within 45 days.

6. A previously approved vendor must submit written notification within the 60-day period to manufacture and distribute equipment that meets Standard 4B+ requirements. However, the vendor may elect to submit equipment for approval to the requirements set forth in section 6 of Standard 4C.

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, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Revise the *Domestic Mail Manual* (DMM) as follows:

Domestic Mail Manual (DMM)

* * * * *

D Deposit, Collection, and Delivery

D000 Basic Information

* * * * *

D040 Delivery of Mail

D041 Customer Mail Receptacles

[Add new section 3.0, to read as follows]

3.0 WALL-MOUNTED CENTRALIZED MAIL RECEPTACLES

3.1 Manufacturer Requirements

Manufacturers of wall-mounted centralized mail receptacles used for mail delivery must receive approval under the specifications and procedures set forth in USPS Standard 4. The specifications and other applicable information can be obtained by writing to USPS Engineering (*see* G043 for address) or from *wallmountedreceptacles@usps.gov*.

3.2 Customer Requirements

The installation of proper equipment is required for the provision of delivery service. The type of equipment must be approved by the Postal Service under 3.1 and must be appropriate for the structure. Customers should discuss the types of approved equipment permitted for their structures with their postmaster before purchasing and installing delivery equipment. Additional information is available at *wallmountedreceptacles@usps.gov*.

* * * * *

■ 3. Replace USPS–STD–4B with USPS–STD–4C as set forth below:

U.S. Postal Service Standard Wall-Mounted Centralized Mail Receptacles

1. Scope

1.1 *Scope*—This standard covers the design, testing, and acceptance of wall-mounted, centralized mail receptacles. The use of this standard is mandatory and the receptacles shall conform to this standard in order to be approved by the Postal Service™.

1.2 *Suggested Design Types*—Wall-mounted, centralized mail receptacles may be of the general types as shown in figures 1 through 12. The depicted representations are only examples of possible compartment configurations. The intention of these figures is not to dictate specific designs and compartment arrangements, but to portray design examples that meet the requirements. In all cases, the units shall be designed for fully recessed wall mounting.

Type I, Front Loader—A family of mail receptacles in a single column configuration with a single master door design, a minimum of 3 and a maximum of 8 customer compartments, 1 mail collection compartment with separate outgoing mail slot and Arrow lock door, and 1 parcel compartment.

Type II, Front Loader—A family of mail receptacles in a double column configuration with a double master door design, a minimum of 3 and a maximum of 16 customer compartments, 1 mail collection compartment with separate outgoing mail slot and Arrow lock door, and 1 or 2 parcel compartments.

Type III, Front Loader—A family of mail receptacles in a double column configuration with a single master door design, a minimum of 3 and a maximum of 16 customer compartments, 1 mail collection compartment with separate outgoing mail slot and Arrow lock door, and 1 or 2 parcel compartments.

Type IV, Rear Loader—A family of mail receptacles in a single column configuration with a rear access cover design, a minimum of 3 and a maximum of 8 customer compartments, 1 mail collection compartment, and 1 parcel compartment.

Type V, Rear Loader—A family of mail receptacles in a double column configuration with a rear access cover design, a minimum of 3 and a maximum of 16 customer compartments, 1 mail collection compartment, and 1 or 2 parcel compartments.

Type VI, Front Loader (No Parcel Compartment)—A family of mail receptacles in a single column configuration with a single master door design, a minimum of 3 and a maximum of 9 customer compartments and 1 mail collection compartment with separate outgoing mail slot and Arrow lock door.

Type VII, Rear Loader (No Parcel Compartment)—A family of mail receptacles in a single column configuration with a rear access cover design, a minimum of 3 and a maximum of 9 customer compartments, and 1 mail collection compartment.

Type VIII, Front Loader (No Parcel Compartment)—A family of mail receptacles in a double column configuration with a double master door design, a minimum of 3 and a maximum of 19 customer compartments, and 1 mail collection compartment with separate outgoing mail slot and Arrow lock door.

Type IX, Rear Loader (No Parcel Compartment)—A family of mail receptacles in a double column configuration with a rear access cover design, a minimum of 3 and a maximum of 19 customer compartments, and 1 mail collection compartment.

Type X, Front Loader, Parcel Only (No Master Door)—A family of parcel receptacles in a single column configuration without a master door design. These units are designed to provide separate parcel delivery capability for wall-mounted centralized mail receptacles installed without integral parcel compartments.

Type XI, Front Loader, Parcel Only—A family of parcel receptacles in a single column configuration with a master door design. These units are designed to provide separate parcel delivery capability for wall-mounted, centralized mail receptacles installed without integral parcel compartments.

Type XII, Rear Loader, Parcel Only—A family of parcel receptacles in a single column configuration with a rear access cover design. These units are designed to provide separate parcel delivery capability for wall-mounted, centralized mail receptacles installed without integral parcel compartments.

1.3 *Approved Manufacturers*—A list of approved manufacturers is available upon request from: USPS Engineering, Delivery and Retail Systems, 8403 Lee Highway, Merrifield Va 22082–8101.

1.3.1 *Interested Manufacturers*—Manufacturers interested in selling wall-mounted, centralized mail receptacles to the public are required to obtain Postal Service approval. See section 6 for the application process.

2. Applicable Documents

2.1 *Specifications and Standards*—Except where specifically noted, the specifications set forth herein shall apply to all receptacle designs.

2.2 *Government Documents*—The following documents of the latest issue are incorporated by reference as part of this standard.

United States Postal Service—POM, *Postal Operations Manual*

Copies of the applicable sections of the Postal Operations Manual can be obtained from USPS Delivery and Retail, 475 L'Enfant Plaza SW, Washington, D.C. 20260–6200.

USPS–L–1172—Locks, Compartment, Customer—PSIN O910

Copies of United States Postal Service® specifications, standards and drawings may be obtained from USPS Delivery and Industrial Equipment CMC, Greensboro, NC 27498–0001.

2.3 *Non-Government Documents*—The following documents of the latest issue are incorporated by reference as part of this standard.

STANDARDS—American Society for Testing and Materials (ASTM)

ASTM G85 Standard Practice for Modified Salt Spray (Fog) Testing

ASTM D968 Standard Test Methods for Abrasion Resistance of Organic Coatings by Falling Sand

ASTM D3801 Standard Test Methods for Measuring the Comparative Burning Characteristics of Solid Plastics in a Vertical Position

Copies of the preceding documents may be obtained from the American Society for Testing and Materials, 100 Barr Harbor, West Conshohocken, PA 19428–2959. (*http://www.astm.org*)

Underwriters Laboratories—UL 771, Night Depositories (Rain Test Only)

Copies of the preceding document can be obtained from Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062–2096. (*http://www.ul.com*)

3. Requirements

3.1 *General Design and Construction*–The general configurations of the wall-mounted, centralized mail receptacles shall conform to the requirements as described in this standard. The receptacles shall be designed and constructed so that they can be serviced according to the intended method, front or rear access. The receptacles shall be designed to allow wall mounting in accordance with the installation requirements as stipulated in this document and the applicable sections of the current *Postal Operations Manual* (POM) as referenced in section 2.2. The receptacle design shall preclude access from one compartment to another and it shall provide the required level of security for all receptacle contents and resistance to vandalism. The clearance between shelving sides and interior sides or rear walls shall prevent the

passage of a 3½-inch (height) by 5-inch (length) by .007-inch thick card from one compartment to another.

The design of all wall-mounted, centralized mail receptacles may be of the Types specified in 1.2. The design of all receptacles shall be such that the unit can be installed either indoors or outdoors. Outdoor installations shall be in compliance with conditions as described in this document and the applicable sections of the POM without damage or deterioration to the materials of the receptacle or to its contents. Each unit shall be made of the exact materials, construction, coating, finish, etc., as shown on the manufacturer's drawings, which are identified and certified by the Postal Service. The overall height, width, and depth of any receptacle shall be such that all the applicable mounting requirements shall be met.

All front loading receptacles shall have fixed solid backs.

3.2 *Materials*—Latitude shall be allowed in the materials used. The thickness, form, and mechanical and chemical properties of the material shall be adequate to meet the operational, structural, and performance requirements set forth in this standard. Materials must be compatible with each other; nontoxic and nonirritating to humans. Dissimilar metals shall be protected against galvanic corrosion. The material used in the fabrication of this equipment shall be new, suitable for the purpose used, free from all defects, and of the best commercial quality for this type of equipment.

3.3 *Colors, Coatings and Finishes*—Exterior colors and finishes of the receptacles, in general, shall be optional with the manufacturer. Any finish or coating selected should meet all the requirements of this document.

3.4 *Mounting and Hardware*—The hardware for attaching the receptacle to the wall shall be provided and packaged with the unit. All mounting hardware shall meet the corrosion resistance requirements of this document. Mounting hardware shall not protrude from any part of the unit to create a hazardous catch or bump point for customers or carriers. The mounting hardware shall be accessible for replacement in the event of damage to the unit and shall be hidden from public view while in service. The mounting technique and hardware selected shall allow the receptacle, when wall-mounted in accordance with the manufacturer's instructions, to meet the pull requirements of section 4.11.9.

3.5 *Customer and Parcel Compartment Doors*—All compartment doors shall meet the common requirements listed in this section. In addition, each type of compartment doors shall meet any unique door requirements as described in 3.5.1 through 3.5.4 below.

All compartments of front loading receptacles shall have their own door and shall be hinged on the right. The door hinges shall be concealed or designed to prevent tampering. The doors shall be designed to open, close, and lock without binding or excessive play. All doors shall open a minimum of 90 degrees. The clearance between door and door opening shall be evenly spaced, consistent in size, and minimized to preclude prying with such simple tools as knives, screwdrivers, thin metal strips, etc.

Optional compartment heights, requiring doors or blanking plates larger than the minimum, shall be allowable, except as stated in section 3.5.3. However, no offered compartment height shall preclude any of the critical installation requirements, or any other requirement, from being met. In addition, no compartment size shall be offered as "approved" that is larger than any Postal Service tested and approved size for that particular manufacturer.

3.5.1 *Customer Compartment Doors*—Once opened, a customer door shall remain in the opened position until closed and locked. Each door shall permit the mounting of a lock as required by 3.10.1.

3.5.2 *Parcel Compartment Doors*—The doors shall be spring loaded to return the doors to the fully closed position. The spring shall be of sufficient strength to close the door from any opened position. The strength of the spring shall not be excessive as to create the potential for injury or cause the doors to "slam" shut. Each door shall permit the mounting of locks as required by 3.10.2.

3.5.3 *Carrier Access (Arrow Lock) Door (Front Loader Designs)*—The carrier access door shall have accommodations for mounting either Arrow lock shown in figure 13 in such a manner that the modified Arrow lock cylinder is flush with the front of the compartment door and the standard Arrow lock is slightly recessed. This door shall be designed to accommodate the mounting of the Arrow lock and the securing of a minimum-sized (3 inches high by 12 inches wide by 15 inches deep) compartment, which typically shall be used for retrieval of collection mail. For security reasons, under no circumstances shall this door be offered in any larger sizes. Once opened, the carrier access door shall remain in the opened position until closed and locked. This door shall not be numbered or lettered.

3.5.4 *Collection Mail Compartment Blanking Plate (Rear Loader Designs)*—Rear loader receptacles shall have a blanking plate, sized to cover a minimum 3 inches high by 12 inches wide compartment, directly beneath the collection mail slot. This plate ensures a minimally acceptable compartment volume for the customer outgoing mail on rear loaders.

3.6 *Master Loading Door(s)*

3.6.1 *Front Loader Designs*—These units shall be equipped with a master loading door(s) on the same side as the individual compartment and parcel doors. The master loading door(s) shall allow access to all the unit's customer compartments and parcel compartments for the deposit of letter mail and parcels and the collection of customer outgoing mail. The master loading doors shall be designed not to interfere with the loading of customer and parcel compartments. These doors shall be designed so the withdrawal of mail through the individual customer doors allows the mail to slide smoothly over any parts of the master, customer, or parcel doors. The master loading door(s) shall be easy to open and close. For any double master loading door design, the doors shall be hinged on opposite sides and latched at the center of the unit. The door hinges shall be continuous or concealed and designed to prevent tampering. The doors shall lock in the open position by an automatic self-locking device until the delivery employee completes loading. The doors shall be held open at an angle of 90 degrees (+5, −0). The delivery employee shall be able to easily release the hold open device to close the door when loading has been completed. The door hold-open device shall withstand an inward or outward pull of 50 (+5, −0) pounds when applied to the master door edge farthest from the master door hinge and in a direction perpendicular to the door. (**Note:** For any nonparcel compartment design, disregard parcel compartment references.)

The master loading door for any single door receptacle design and the right master loading door for any double master door design shall, as a minimum, have provisions and accommodations for a three-point (top, middle, bottom) latching mechanism, exclusive of the hinges, in conjunction with either a standard or modified Arrow lock to secure the door. Unless used solely as an actuator for locking pin(s), the Arrow lock shall lock the master loading door latch mechanism to ensure that the master loading doors are securely latched and that the latch mechanism

cannot be moved. A limited loading shall be permitted on the end of the Arrow lock bolt only when the Arrow lock is used as an actuator to engage locking pins. In this case, the locking pin(s) shall secure the Arrow lock door to the master loading door frame. Only Arrow locks dimensioned in figure 13 shall be acceptable. The latching mechanism shall be rigid in design to avoid distortion. Locknuts shall be included for installing the Arrow lock. The master loading door(s) shall be easy to open, close, and lock. The carrier access shall not have pinch points or sharp edges. Clearance between the door and door opening shall be evenly spaced and consistent in size. The master loading doors shall be easily unlatched and opened using one hand. The latch mechanism may be mounted either on the unit frame or the master loading door. Clearance below the latch handle in either case shall be a minimum of 1.25 inches. When the carrier activates a master loading door latch mechanism mounted on the unit frame, the outer edge of the master loading door shall be automatically opened a minimum of 1 inch outside the door frame, enabling the carrier to easily grasp the door. When the latch mechanism is mounted on the unit frame, the handle must provide between 1.25 and 1.50 inches of grip length and a minimum of 1 square inch of surface area. When the carrier activates a master loading door latch mounted on the door, the latch handle may be used to pull the door open. When the latch mechanism is mounted on the door, the handle must provide a minimum of 1.75 inches of grip length. In any double master door design, when the master loading door with the Arrow lock traps, or locks the left master loading door, a push-out device shall not be required if the carrier can easily grasp and open the left door.

3.6.2 *Rear Loader Designs*—The master loading door for any rear loading units shall be in the form of a rear cover or door, which can be opened or removed and closed or replaced by the mail carrier, which will permit delivery of mail to each compartment. The cover or door shall prevent the mail from falling out between the cover or door and shelves, and be strong enough to prevent theft of the contents of adjoining receptacles by manually forcing the rear door or cover from the front of the receptacle through a compartment. The cover or door shall be capable of being latched or secured; locking is not required.

3.7 *Customer and Parcel Compartment Sizes*—Customer and parcel compartment size requirements shall be as specified below.

3.7.1 *Customer Compartment Sizes*—The minimum interior dimensions of each customer delivery compartment shall be 3 inches high by 12 inches wide by 15 inches deep. Optional compartment heights, greater than the 3 inch minimum, shall be allowable, and mixed size customer compartments may be offered in any one unit. However, no combination shall preclude any of the critical installation requirements, or any other requirement, from being met. In addition, no compartment size shall be offered as "approved" that is larger than any Postal Service-tested and approved size for that particular manufacturer.

3.7.2 *Parcel Compartment Sizes*—The minimum interior dimensions of the parcel compartments shall be as follows:

(a) Standard Parcel Locker—15 inches high by 12 inches wide by 15 inches deep

(b) Large Parcel Locker—18 inches high by 12 inches wide by 15 inches deep

3.7.2.1 *Parcel Locker to Customer Compartment Ratio*—A minimum of one standard parcel locker shall be provided for every ten customer compartments. For installation sites with less than ten customer compartments, there shall be no mandatory parcel locker requirement, however, it shall be the intent of the Postal Service to strongly encourage the inclusion of a parcel locker.

3.8 *Collection Mail and Carrier Access (front-loading designs only) Compartment*—All units shall have one reinforced collection mail compartment. A mail deposit slot 10.75 inches wide by .75 inches high shall be provided with a weather shield and a security shield to protect the deposited mail from the rain and snow and to prevent removal of the mail by fishing and pilfering techniques through the deposit slot. This compartment shall not be numbered or lettered. The phrase "OUTGOING MAIL" shall be marked on the deposit slot shield in black, recessed lettering. Marking shall be permanent and lettering size shall be ⅜ to ½ inch high.

3.8.1 *Front-Loading Designs*—For front-loading designs, the front of the minimum-sized collection compartment shall consist of the carrier access (Arrow lock) door, as described in section 3.5.3, and the mail collection/deposit slot, which is framed by separate elements providing the weather and security shielding. The mail deposit slot frame design shall be hard mounted to the master door structure. Optional outgoing mail compartment heights shall be allowable. Hard-mounted front blanking plates shall be used as required under the Arrow lock door for any larger collection mail compartment offerings. In addition, no offered outgoing mail compartment height shall preclude any of the critical installation requirements, or any other requirement, from being met, and no compartment size shall be offered that is larger than any fully tested size.

3.8.2 *Rear-Loading Designs*—For rear-loading designs, the front of the minimum-sized collection compartment shall consist of a blanking plate hard mounted to the master door structure and the mail collection/deposit slot, which is framed by separate elements providing the weather and security shielding. Optional outgoing mail compartment heights, requiring blanking plates larger than the minimum, shall be allowable. However, no offered outgoing mail compartment height shall preclude any of the critical installation requirements, or any other requirement, from being met. In addition, no compartment size shall be offered that is larger than any fully tested size.

3.9 *Identification*—Customer and compartment identifications shall be in the following manner.

3.9.1 *Customer Compartment Identification*—Customer compartment doors shall be identified using either numbers or letters, optionally, in sequence from top to bottom. For any double master door designs, the numbers or letters shall start from the upper left corner compartment. In addition, they shall be ¾ to 1 inch high, sequential, black, and recessed. They may be engraved or stamped. Brushed aluminum decals with black numbering may be used, provided the decals are recessed in the door or a raised rib is provided around the decal to enhance the decal's location and limit removal. Decals shall be secured using a permanent type of adhesive. Numbers shall be made with one decal and not a combination of two single letter or number decals. In the horizontal direction, the centerline of the numbers shall be to the right of the customer lock (top lock) centerline. In the vertical direction, the customer lock and the numbers shall be the same centerline.

3.9.2 *Parcel Compartment Identification*—Parcel compartment doors shall be provided with ¾ to 1 inch high, sequential, black, recessed numbers. Numbers may be engraved or stamped. Brushed aluminum decals with black numbering may be used, provided they are recessed in the door or a raised rib is provided around the

decal to enhance decal location and limit removal. Decals shall be secured using a permanent type of adhesive. Numbers shall be made with one decal and not a combination of two single letter or number decals. Raised lettering shall not be acceptable. Parcel compartment doors shall be numbered (typically, 1P, 2P, etc). In the horizontal direction, the centerline of the letters shall be to the right of the customer lock (top lock) centerline. In the vertical direction, the customer lock and the numbers shall be the same centerline.

3.9.3 *Customer Identification*—A minimum ½ inch wide surface shall be located below the front of each delivery compartment shelf. The surface shall be concealed by the master door(s) and shall be visible only by the carrier once the master door(s) is opened. The surface provided shall be smooth and will allow for the optional attachment of self-adhesive labels. Alternatively, each compartment may be equipped with either a clasp or holder to accommodate a name card, or supplied with a designated flat surface for a permanent-type pressure-sensitive label for identifying the customer using the compartment. The holder or clasp shall be located on the frame above each compartment or inside of the compartment where the customer's name will be easily visible to the carrier when the box is opened for loading. The holder shall be of sufficient size to hold a name card of .75 inch by 2.50 inches or as large as space permits.

3.10 *Locks*—Locks and cams shall be provided as specified below.

3.10.1 *Customer Compartment Locks*—Each customer compartment door shall use a PSIN O910 lock, as specified in USPS–L–1172, or equivalent. The hole pattern for the lock is shown in figure 14. The hole shall be able to withstand 100 foot pounds of rotational torque, preventing the lock from being turned in the door allowing unauthorized entry into the compartment. The locks shall be oriented so that the locking cam rotates 90 degrees from the locked to the unlocked position. The key shall be removable only in the locked position. Individual customer locks shall be located in the compartment doors on the left side. Each lock shall be provided with three keys as specified in section 3.11.1. Key numbers shall not be placed on any exterior exposed surface. Cams shall be designed by the manufacturer to allow a secure grip of the lock to the compartment side wall. Each compartment lock shall be keyed differently in each receptacle. The locks must be securely fastened to the door to preclude punching out and twisting off. All customer compartment doors shall be locked for shipment.

3.10.2 *Parcel Compartment Locks*—Each parcel compartment door shall be configured to accept a combination 910/Arrow lock arrangement. The 910 lock shall serve as the customer access lock. Any parcel compartment provided as an integral part of a receptacle design shall have a 910 lock that is keyed differently than any customer compartment lock in the receptacle. The lock may itself provide the locking cam to secure the parcel door or it may be used as an actuator in such a way as its cam moves locking pins into place to secure the parcel door. The locking pins would withstand the pry attack loads. The Arrow lock "captures" the 910 lock after its key has been inserted and the lock turned to allow the customer to remove their parcel. The Arrow lock and the 910 lock shall be located in a partitioned compartment and, for ease of maintenance reasons, shall not share the same compartment cover. The 910 lock cover shall be secured with standard hardware while the Arrow lock compartment cover shall be secured with tamper resistant screws. All parcel compartment doors shall be locked for shipment.

3.10.3 *Master Loading Door Lock (Front-Loading Designs)*—Front loader receptacles shall be secured with an Arrow lock, in accordance with figure 13, to lock the master loading door(s) as defined in section 3.6.1. These units shall be configured so that the Arrow lock is always located directly beneath the collection mail slot. The mail slot and the Arrow lock door (carrier access door) shall share the same compartment but be separate items for security reasons. The Arrow lock shall be furnished and installed by the local postmaster or his representative. In addition, the Postal Service will provide dummy Arrow locks for test purposes upon request.

3.11 *Keys and Key Identification*—All compartment keys for locks in accordance with USPS–L–1172 or equivalent shall be identified and perform in the following manner to allow for efficient control, security, and operation. No two compartments in the same receptacle shall be keyed alike. In addition, the full complement of required key codes shall be utilized in sequential order prior to repeating any individual key code within a production lot of receptacles. All keys shall have any burrs removed and shall move freely in and out of the lock. When the lock is installed and the key is inserted, the locks must be positioned so that the key is free to turn without binding or contacting/scraping any adjoining surface.

3.11.1 *Compartment Keys*—Three keys shall be provided for each customer compartment and shall be delivered on a single key ring. All keys shall be temporarily identified for their respective compartment, bagged, and securely taped inside the collection compartment for shipping.

3.11.2 *Parcel Keys and Tags*—Heavy-duty, rigid, clear plastic tags with card inserts containing instructions to the Postal Service customer on the use of the key, shall be furnished with each key for an individual parcel receptacle. The plastic tags shall be $1\frac{1}{2} \pm \frac{1}{16}$ inches wide by $3 \pm \frac{1}{16}$ inches long by $\frac{1}{16}$ ($+\frac{1}{16}$, -0) inches thick, and shall have an opening at one end for a key ring. All holes or openings shall be reinforced. The tags shall also have a swivel device for key ring mounting. Heavy-duty rings for attaching the holder to the individual key shall be provided for parcel receptacle keys. The key shall not be easy to remove from the key ring. Each insert card shall be identified with a serial number that is the same as the mail receptacle unit's serial number. The cards shall be numbered (*e.g.*, 1P, 2P, etc) to correspond with their respective parcel receptacles. Card insert lettering shall be legible and of sufficient size and contrast to be easily read. All keys shall move freely in and out of the lock. Three keys shall be provided for each receptacle lock, tagged with the clear plastic holder for their respective receptacle, and placed in the same bag with compartment keys.

The card insert shall be as follows:

Clear Plastic Holder with card insert (side A & B), YOU HAVE MAIL IN RECEPTACLE #____ * UNLOCK *TOP LOCK* AND REMOVE MAIL. KEY REMAINS IN LOCK.

***Note:** The manufacturer shall provide the numbers and names as specified above.

3.12 *Marking*—For front-loading designs, there must be two inscriptions centered on the carrier access door: "U.S. MAIL" in a minimum of .50 inch high letters and "APPROVED BY THE POSTMASTER GENERAL" in a minimum of .18 inch high letters. For rear-loading designs, these inscriptions must be centered on the blank panel of the outgoing mail compartment. These inscriptions shall be positioned in a vertical stack with "U.S. Mail" appearing above "APPROVED BY THE POSTMASTER GENERAL." Markings must be permanent and may be accomplished by applying a decal, embossing on sheet metal, applying raised lettering on plastic, or using other methods that are suitable. In addition, a

legible and permanently marked decal with "USPS–STD–4C," the manufacturer's name, address, date of manufacture (month and year), unit serial number, and model number or nomenclature must be affixed to the receptacle in a location that is readily visible to carriers.

3.13 *Assembly and Installation Instructions*—A complete set of instructions including illustrations for assembling and installing the receptacle shall be prepared and provided with each receptacle. Both front- and rear-loading receptacles shall be mounted in accordance with the installation requirements as stipulated in this document and the applicable sections of the current *Postal Operations Manual* (POM) as referenced in section 2.2. The installation described shall be tested in accordance with the testing of section 4.11.9. These instructions shall completely convey all recess wall-mounting details, including equipment installation height restrictions as provided in the figures and the parcel locker ratio information. In addition, the instruction sheet shall carry a notice that the receptacle met all requirements of the Postal Service standard.

3.14 *Workmanship*—Workmanship shall be of the highest quality throughout. All parts shall be clean, straight, accurately formed and assembled, properly fitted, and uniform in size and shape. Parts shall be free from delaminations, cracks, warpage, bulges, kinks, dents, porosity, voids, lumps, foreign matter, and other defects. Finished or coated surfaces shall be smooth and uniform, and free from soft areas, stain, chips, crazing, and cracks. Seams and connections shall be tight. Welding, riveting, and other joining shall be done in a neat and approved manner. The receptacle shall be free from sharp edges, sharp corners, protruding rivets, and operational features, which might injure or hamper the carrier or customer.

3.15 *Bolted Connections*—Bolts or screws that can be removed in any exposed area shall not be used for joining parts of the receptacle. Sheet metal screws shall not be used in the assembly of the receptacle.

3.16 *Riveted Joints*—Hollow-type eyelets or grommets shall not be used in the fabrication of the receptacle.

3.17 *Welding*—Any type of weld (electric-arc, resistance, gas, etc.) may be used in the fabrication of the receptacle, providing it produces a satisfactory and safe joint and is performed in accordance with applicable best commercial practices.

3.18 *Fabrication and Assembly*—All components and parts shall be fabricated and assembled to be permanently square and rigid to preclude binding, warping, or misalignment, which may reduce or prevent proper equipment operation or maintenance or may result in a premature failure of any part or component.

4. Testing Requirements

4.1 *Testing Requirements*—Units will be subjected to all applicable testing described herein. A unit that fails to pass any test will be rejected. Testing will be conducted in sequence as listed herein and in table III.

4.2 *Capacity*

4.2.1 *Customer Compartments*—Customer compartments must meet minimum capacity requirements tested by insertion and removal of a standard test gauge which measures $2^{15}/_{16}$ inches high by $11^{15}/_{16}$ inches wide by $14^{15}/_{16}$ inches deep. The test gauge will be inserted with its $2^{15}/_{16}$-inch dimension aligned in the vertical axis (perpendicular to the compartment floor). The gauge must be capable of easy insertion and removal, and while inserted, allow for the door(s) to be completely closed without interference.

4.2.2 *Collection Mail Compartment*—The collection mail compartment must meet minimum capacity requirements tested by insertion through the mail deposit slot of 48 standard letters (4.00 inches high by 9.50 inches long by .12 inch thick) and 4 Express Mail or Priority Mail envelopes (9.50 inches high by 12.50 inches long by .50 inch thick). Letter and envelope thicknesses shall be achieved by inserting 8.50 inch by 11 inch paper.

4.2.3 *Parcel Compartment*—Parcel compartments must meet minimum capacity requirements tested by insertion and removal of a standard test gauge which measures $14^{15}/_{16}$ inches high by $11^{15}/_{16}$ inches wide by $14^{15}/_{16}$ inches deep. The test gauge will be inserted with a $14^{15}/_{16}$ inch dimension aligned on the vertical axis (perpendicular to the compartment floor). The gauge must be capable of easy insertion and removal; and while inserted, allow for the door(s) to be completely closed without interference.

4.3 *Operational Requirements*—The carrier access (Arrow lock) door, customer doors, parcel doors, master loading door(s), and hold open device(s) must be capable of operating 10,000 normal operating cycles (1 cycle = open/close) at room temperature, continuously and correctly, without any failures such as breakage of parts. The cycle rate for carrier access (Arrow lock), customer and parcel doors shall not exceed 3 seconds per cycle. The cycle rate for the master loading door(s) and hold open device(s) shall not exceed 10 seconds per cycle. Testing may be performed either manually or by means of an automated, mechanically driven test fixture that replicates a manual operation.

4.4 *Water-Tightness*—A rain test in accordance with UL 771, section 47.7 shall be performed to determine a receptacle's ability to protect mail from water. Prior to the test, the unit shall be prepared by shielding the body of the receptacle so that only the master door, customer doors, and front frame elements shall be directly exposed to rain during the test. The rain test shall be operated for a period of 15 minutes on the customer compartment door (front) side of the mail receptacle. At the conclusion of the test, the outside of the unit is wiped dry and all doors are opened. The inside of the compartments must contain no water other than that produced by high moisture condensation.

4.5 *Salt Fog Resistance*—A salt fog test shall be conducted in accordance with method A5 of ASTM G85, Standard Practice for Modified Salt Spray (Fog) Testing. The salt test shall be operated for 25 continuous cycles with each cycle consisting of 1-hour fog and 1-hour dry-off. The unit shall be tested in a finished condition, including all protective coating, paint, and mounting hardware and shall be thoroughly washed when submitted to remove all oil, grease, and other nonpermanent coatings. No part of the receptacle may show finish corrosion, blistering, or peeling, or other destructive reaction upon conclusion of test. Corrosion is defined as any form of property change such as rust, oxidation, color changes, perforation, accelerated erosion, or disintegration. The buildup of salt deposits upon the surface shall not be cause for rejection. However, any corrosion, paint blistering, or paint peeling is cause for rejection. It is also valid for units made of plastic that employ metal hardware.

4.6 *Abrasion Resistance*—The unit's coating/finish shall be tested for resistance to abrasion in accordance with method A of ASTM D968. The rate of sand flow shall be 2 liters of sand in 22±3 seconds. The receptacle will have failed the sand abrasion test if less than 15 liters of sand penetrates its coating or if less than 75 liters of sand penetrates its plating. This test is applicable to metal receptacle designs only.

4.7 *Temperature Stress Test*—The unit under test shall be placed in a cold chamber at −40° Fahrenheit (F) for 24 hours. The chamber shall first be

stabilized at the test temperature. After remaining in the −40° F environment for the 24-hour period, the unit shall be quickly removed from the cold chamber into room ambient and tested for normal operation. The removal from the chamber and the testing for normal operation shall be accomplished in less than 3 minutes. The room ambient shall be between 65° and 75° F. Normal operation is defined as operation required and defined by this document. The unit under test shall undergo a similar temperature test, as described above, at a temperature of 140° F.

4.8 *Structural Rigidity Requirements*—Pull loads of the specified magnitudes (see table II) shall be slowly applied at any point of the specific item of the unit under test. These forces shall be held for a time not to exceed one minute and then released. Supplemental bracing may be used to isolate the loading on the specific item to be tested. After the release of the load, the permanent deformation caused by the forces shall be measured. If the deformation exceeds the limit specified in table II, the unit under test has failed to meet the structural rigidity requirement.

TABLE II

[Pull load permanent deformation limits]

Item	Permanent deformation (inches)	Pull load (pounds)
Carrier Access (Arrow Lock) Door(Front-Loading Designs)	1/8	1400
Collection Comp. Front Blanking Plate(Rear-Loading Designs)	1/8	1400
Collection Mail Slot Frame(All Designs Except Parcel-Only)	1/8	1400
Master Door(s) at Hinge Side—Top & Bottom (Front-Loading Designs)	1/8	1000
Master Door at Center Along Arrow Lock Side—(Front-Loading Designs)	1/8	1000
Rear Cover(Rear-Loading Designs)	1/8	250
Customer Compartment Door(All Designs Except Parcel-Only)	1/8	250
Parcel Compartment Door (All Designs Except Non-Parcel Versions)	1/8	250
Master Door Hold-Open Device(Front-Loading Designs)	0	50

4.9 *Impact Test*—The front exposed surfaces of the receptacles and any coatings applied to them shall not be cracked, chipped, broken, dented (more than 1/16 inch in depth), or visibly permanently deformed by a hard steel 2-pound ball with a 1/2-inch spherical radius dropped from a height of 6 inches.

4.10 *Flammability*—A flammability test shall be conducted on all potentially flammable materials used in the unit. The test shall be conducted in accordance with ASTM D3801. The ASTM D3801 standard flame test shall achieve a rating of V–1 or better. (Note: It is the building owner's responsibility to make sure that the installation of any receptacle is in compliance with local building and fire codes.)

4.11 *Security Test*—Receptacles shall be tested, as described below, for resistance to tampering and unauthorized entry through the use of tools such as screwdrivers, flat plates, knives, pry bars, vise grips, pliers, chisels, and punches for a period not to exceed 3 minutes for each feature tested. No pry tools shall exceed 18 inches in length. Because of the critical nature of the master-loading door and Arrow lock (outgoing mail) compartment, a hammer shall be used in tandem with the other tools during tests of these items. The head weight of any hammer used shall not exceed 3 pounds. In addition, the Arrow lock compartment door will also be subjected to a 2-minute torch test using commonly available microtorch kits.

4.11.1 *Customer Compartment and Parcel Compartment Customer Access Locks*—Customer lock plugs shall withstand a minimum of 70 pounds of force slowly applied inward. Load forces shall be applied to the key entrance side of the lock. The lock and door shall remain closed and locked after each test. In addition, the locks shall be tested using vise grips and other tools in an attempt to turn the lock with the customer or parcel door in the closed position. These tests shall not allow access to the customer or parcel compartment.

4.11.2 *Customer Compartment Doors*—Gaps and seams around the perimeter of the customer compartment doors shall be tested using pry tools listed in 4.11 for a period not to exceed 3 minutes to ensure that access to the compartment cannot be gained. The lock-mounting hole in the door shall be able to withstand 100 foot-pounds of torque applied in the plane of the door, preventing the lock from being turned in the door allowing unauthorized entry into the compartment.

4.11.3 *Parcel Compartment Door*—Gaps and seams around the perimeter of the parcel compartment door(s) shall be tested using pry tools listed in 4.11 for a period not to exceed 3 minutes to ensure that access to the compartment cannot be gained.

4.11.4 *Master Loading Door* (Front-Loading Designs only)—Seams around the perimeter of the master loading door(s) shall not allow access to the interior of the receptacle when tested using pry tools listed in 4.11 for a period not to exceed 3 minutes. A 3-pound hammer shall be used for a time period not to exceed 1 minute in tandem with these other tools during the tests of the master-loading door(s).

4.11.5 *Arrow Lock Compartment Door* (Front Loading Designs only)—The Arrow lock compartment door shall be tested using the pry tools in 4.11 for a period not to exceed 3 minutes. A 3-pound hammer shall be used for a time period not to exceed 1 minute in tandem with these other tools during the tests of various features of the Arrow lock compartment. Seams and gaps around the perimeter of the Arrow lock compartment door and the structural integrity of the door itself shall not allow access to the receptacle under test conditions. In addition, the Arrow lock compartment door will also be subjected to a 2-minute torch test using commonly available microtorch kits. (Note: These tests shall not be performed on the same test door.)

4.11.6 *Outgoing Mail Slot*—The mail slot and security shield design shall be tested using the pry tools in 4.11 for a period not to exceed 3 minutes. A 3-pound hammer shall be used for a time period not to exceed 1 minute in tandem with these other tools during the tests of the seams and gaps around the perimeter of the mail slot. In addition, as part of the test, a pry bar not exceeding 18 inches in length shall be inserted into the mail slot in an attempt to gain access to deposited mail in the compartment.

4.11.7 *Outgoing Mail Compartment Front Blanking Plate*—Gaps and seams around the perimeter of any outgoing mail compartment front blanking plate shall be tested using pry tools listed in 4.11 for a period not to exceed 3 minutes to ensure that access to the compartment cannot be gained. A 3-pound hammer shall be used for a time period not to exceed 1 minute in tandem with these other tools during the tests of the seams and gaps around the perimeter of this item.

4.11.8 *Rear Door/Panel (Rear Loading Designs only)*—The rear cover shall be tested for a period not to exceed 3 minutes by attempting to force it to unseat. No access to the backside of the unit or to any adjacent compartments shall be gained as a result of this test. All customer compartment and parcel locker doors shall be open for this test.

4.11.9 *Receptacle Installation (All Designs)*—Receptacles will be installed in a representative wall fixture in accordance with the installation instructions provided by the manufacturer. The receptacle's mounting hardware will be subjected to a uniform pull load of 500 pounds. This load will be applied by placing a bolster plate to the backside area of the receptacle and attaching it to one or more cables that are passed through drill holes added to the rear wall of the actual receptacle. Any front doors of customer compartments in alignment with the cables may be opened or removed for the test. All bolster plate cables will be tied together at a minimum distance of 3 feet from the front surface of the unit with a single cable fitted with a shackle, hook, etc. A maximum horizontal pull load of 500 pounds will be applied and the receptacle will have met this requirement if its mounting hardware is not loosened from its wall mount. Supplemental bracing of the wall may be used to isolate the loading on the receptacle's mounting hardware.

5. Quality Management System Provisions

5.1 *Quality System*—The approved source shall ensure and be able to substantiate that manufactured units conform to requirements and match the approved design.

5.2 *Inspection*—The USPS reserves the right to inspect units for conformance at any stage of manufacture. Inspection by the USPS does not relieve the approved source of the responsibility to provide conforming product. The USPS may, at its discretion, revoke the approval status of any product that does not meet the requirements of this standard.

5.3 *System*—The approved source shall use a documented quality management system acceptable to the USPS. The USPS has the right to evaluate the acceptability and effectiveness of the approved source's quality management system prior to approval, and during tenure as an approved source. As a minimum, the quality management system shall include controls and record keeping in the following areas:

5.3.1 *Document Control*—Documents used in the manufacture of product shall be controlled. The control process for documents shall ensure the following:

- Documents are identified, reviewed, and approved prior to use,
- Revision status is identified,
- Documents of external origin are identified and controlled.

5.3.2 *Supplier Oversight*—A documented process that ensures the following:

- Material requirements and specifications are clearly described in procurement documents,
- Inspection or other verification methods are established and implemented for validation of purchased materials.

5.3.3 *Inspection and Testing*—The approved source shall monitor and verify that product characteristics match approved design. This activity shall be carried out at appropriate stages of manufacture to ensure that only acceptable products are delivered.

5.3.4 *Control of Nonconforming Product*—The control method and disposition process shall be defined and ensure that any product or material that does not conform to the approved design is identified and controlled to prevent its unintended use or delivery.

5.3.5 *Control of Inspection, Measuring, and Test Equipment*—The approved source shall ensure that all equipment used to verify product conformance is controlled, identified, and calibrated at prescribed intervals traceable to nationally recognized standards in accordance with documented procedures.

5.3.6 *Corrective Action*—The approved source shall maintain a documented complaint process. This process shall ensure that all complaints are reviewed and that appropriate action is taken to determine cause and prevent reoccurrence. Action shall be taken in a timely manner and be based on the severity of the nonconformance.

Note: It is recognized that each approved source functions individually and consequently, the quality system of each approved source may differ in the specific methods of accomplishment. It is not the intent of this standard to attempt to standardize these systems, but to present the basic functional concepts that when conscientiously implemented will provide assurance that the approved source's product meets the requirements and fully matches the approved design.

In addition to outlining the approved source's approach to quality, the documentation should specify the methodology used to accomplish the interlinked processes and describe how they are controlled. The approved source shall submit its quality documentation to the Postal Service for review along with the preliminary design review.

5.3.7 *Documentation Retention*—All of the approved source's documentation pertaining to the approved product shall be kept for a minimum of three (3) years after shipment of product.

5.3.8 *Documentation Submittal*—The approved source shall submit a copy of their quality system documentation relevant to the manufacture of wall-mounted, centralized mail receptacles for review as requested during the approval process and tenure as an approved source.

6. Application Requirements

6.1 *Application Requirements*—All correspondence and inquiries shall be directed to the address in 1.3. The application process consists of:

6.1.1 *Preliminary Review*—Manufacturers must first satisfy requirements of a preliminary review prior to submitting samples of any receptacles. The preliminary review consists of a review of the manufacturer's conceptual design drawings for each receptacle type for which the manufacturer is seeking approval. Computer-generated drawings are preferred, but hand-drawn sketches are acceptable provided they adequately depict the important design aspects of the proposed receptacle design. In particular, drawings should include overall unit with standard and optional compartment size information plus details on the design of such critical features as the carrier access, customer, parcel and master load door(s) designs, hinge designs, all lock-mounting techniques and cam engagements, material selections, the 3-point latching and handle designs, the wall mounting concept, and outgoing mail slot design. If drawings show that the proposed receptacle design appears likely to comply with the requirements of this standard, manufacturers will be notified in writing and may then continue with the application requirements described

in 6.1.2. Do NOT submit any sample units to the USPS prior to complying with the requirements of 6.1.2. Notification that a manufacturer's drawings satisfy the requirements of the preliminary review does NOT constitute USPS approval of a design, and shall NOT be relied upon as an assurance that a design will ultimately be approved.

6.1.2 *Independent Lab Testing*—Upon receiving written notification from the USPS that their design(s) satisfies requirements of the preliminary review, manufacturers shall at their own expense submit at least one representative sample of the highest total-compartment version of each Type apartment receptacle for which the vendor seeks USPS approval to an independent laboratory for testing along with a copy of the preliminary review letter from the USPS. If the vendor plans to offer optional compartment sizes, the submitted samples shall include at least one of the largest compartment size. All tests shall be performed by an approved independent test lab, except for the security tests which shall be performed by the Postal Service. See Appendix A for a list of USPS approved independent test labs.

6.1.3 *Final Review*—Manufacturers shall submit two representative samples of the largest (typically, the highest total-compartment) version to the USPS for security testing, final review and approval. If the vendor plans to offer optional compartment sizes, the submitted samples shall include at least one of the largest compartment size. The sample shall be accompanied with a certificate of compliance and a copy of the laboratory test results (see 6.1.3.3). Receptacles submitted to the USPS (see 1.3) for final evaluation must be identical in every way to the receptacles to be marketed, and must be marked as specified in 3.11. Manufacturers may be subject to a verification of their quality system prior to approval. This may consist of a review of the manufacturer's quality manual (see 6.1.3.4) and an onsite quality system evaluation (see 5.2).

6.1.3.1 *Installation Instructions*—Manufacturers shall furnish a written copy of their installation instructions for review. These instructions shall contain all information as detailed in section 3.13.

6.1.3.2 *Documentation*—Units submitted for approval shall be accompanied by two complete sets of manufacturing drawings consisting of black on white prints (blueprints or sepia are unacceptable). The drawings shall be dated and signed by a manufacturer's representative(s). The drawings must completely document and represent the design of the unit tested. If other versions of the approved Type unit are to be offered, the drawings must include the unique or differing design items of these versions. The drawings must include sufficient details to allow the USPS to inspect all materials, construction methods, processes, coatings, treatments, finishes (including paint types), control specifications, parts, and assemblies used in the construction of the unit. Additionally, the drawings must fully describe any purchased materials, components, and hardware including their respective finishes. The USPS may request individual piece parts to verify drawings.

6.1.3.3 *Certification of Compliance & Test Results*—Manufacturers shall furnish a written certificate of compliance indicating that their design fully complies with the requirements of this standard. In addition, the manufacturer shall submit the lab's original report which clearly shows results of each test conducted (see table IV). The manufacturer bears all responsibility for their unit(s) meeting these requirements and the USPS reserves the right to retest any and all units submitted including those which are available to the general public.

TABLE IV.—TEST REQUIREMENTS

Test	Requirement	Reference	Industry specifications
Capacity	Insertion of test gauges	4.2	
Operational Requirements	10,000 cycles	4.3	
Water-Tightness	No appreciable moisture	4.4	UL 771, section 47.7.
Salt Fog Resistance	25 cycles	4.5	ASTM G85.
Abrasion Resistance	75 liters	4.6	ASTM D968.
Temperature Stress Test	Shall function between −40°F and 140°F	4.7	
Structural Rigidity Requirements	Refer to Table I for loads and points, maximum ⅛ inch permanent deformation.	4.8	
Impact	2 lbs. dropped from 6 inches	4.9	
Flammability	V–1 or better		ASTM D 3801.

6.1.3.4 *Quality Policy Manual*—Manufacturer shall submit its quality policy manual to the address listed in section 1.3.

7. Approval or Disapproval

7.1 *Disapproval*—Written notification, including reasons for disapproval, will be sent to the manufacturer within 30 days of completion of the final review of all submitted units. All correspondence and inquiries shall be directed to the address listed in 1.3.

7.1.1 *Disapproved Receptacles*—Units disapproved will be disposed of in 30 calendar days from the date of the written notification of disapproval or returned to the manufacturer, if requested, provided the manufacturer pays shipping costs.

7.2 *Approval*—One set of manufacturing drawings with written notification of approval will be returned to the manufacturer. The drawings will be stamped and identified as representing each unit.

7.2.1 *Approved Receptacles*—Units that are approved will be retained by the USPS.

7.2.2. *Rescission*—Manufacturer's production units shall be constructed in accordance with the USPS-certified drawings and the provisions of this specification and be of the same materials, construction, coating, workmanship, finish, etc., as the approved units. The USPS reserves the right at any time to examine and retest units obtained either in the general marketplace or from the manufacturer. If the USPS determines that a receptacle model is not in compliance with this standard or is out of conformance with approved drawings, the USPS may, at its discretion, rescind approval of the receptacle as follows:

7.2.2.1 *Written Notification*—The USPS shall provide written notification to the manufacturer that a receptacle is not in compliance with this standard or

is out of conformance with approved drawings. This notification shall include the specific reasons that the unit is noncompliant or out of conformance and shall be sent via Registered Mail™.

7.2.2.1.1 *Health and Safety*—If the USPS determines that the noncompliance or nonconformity constitutes a danger to the health or safety of customers and/or letter carriers, the USPS may, at its discretion, immediately rescind approval of the unit. In addition, the USPS may, at its discretion, order that production of the receptacle cease immediately, and that any existing inventory not be sold for receipt of U.S. mail.

7.2.2.2 *Manufacturer's Response*—In all cases of noncompliance or nonconformity other than those determined to constitute a danger to the health or safety of customers and/or letter carriers, the manufacturer shall confer with the USPS and shall submit one sample of a corrected receptacle to the USPS for approval no later than 45 calendar days after receipt of the notification described in 7.2.2.1. Failure to confer or submit a corrected receptacle within the prescribed period shall constitute grounds for immediate rescission.

7.2.2.3 *Second Written Notification*—The USPS shall respond to the manufacturer in writing, via Registered Mail™, no later than 30 calendar days after receipt of the corrected receptacle with a determination of whether the manufacturer's submission is accepted or rejected and with specific reasons for the determination.

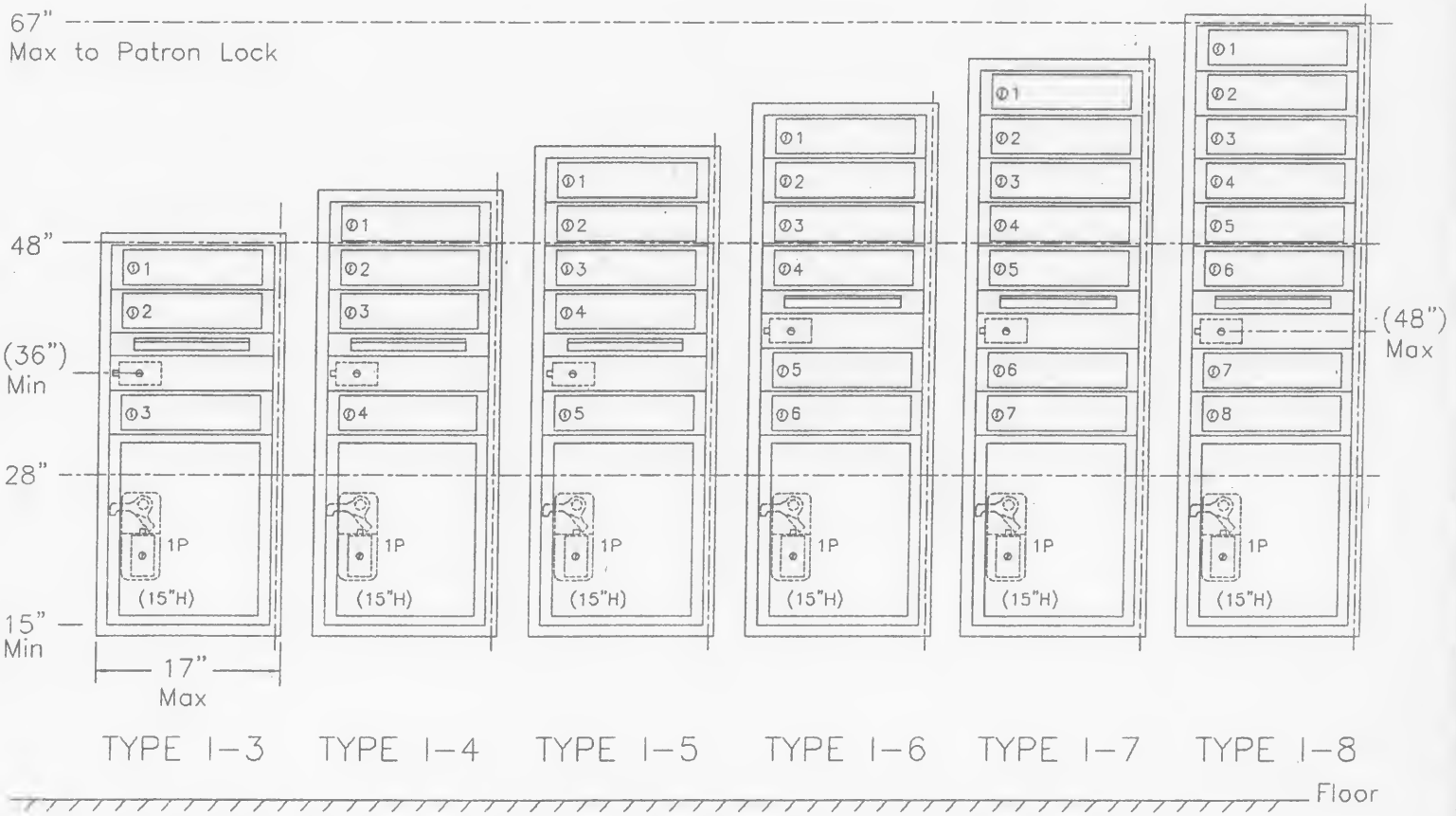
7.2.2.4 *Manufacturer's Second Response*—If the USPS rejects the corrected receptacle, the manufacturer may submit a second sample of the corrected receptacle to the USPS for approval no later than 45 calendar days after receipt of the notification described in 7.2.2.3. Failure to confer or submit a corrected receptacle within the prescribed period shall constitute grounds for immediate rescission.

7.2.2.5 *Final USPS Rescission Notification*—The USPS shall provide a final response to the manufacturer in writing no later than 30 calendar days after receipt of the second sample corrected receptacle with a determination of whether the manufacturer's submission is accepted or rejected and with specific reasons for the determination. If the second submission is rejected, the USPS may, at its discretion, rescind approval of the receptacle. In addition, the USPS may, at its discretion, order that production of the receptacle cease immediately, and that any existing inventory not be sold or used for receipt of U.S. mail. If the USPS rescinds approval, the manufacturer is not prohibited from applying for a new approval pursuant to the provisions of section 6.

7.2.3 *Revisions, Product or Drawings*—Changes that affect the form, fit, and/or function (*i.e.*, dimensions, material, finish, etc.) of approved products or drawings shall not be made without written USPS approval. Any proposed changes shall be submitted with the affected documentation reflecting the changes (including a notation in the revision area), and a written explanation of the changes. One unit, incorporating the changes, may be required to be resubmitted for testing and evaluation for approval.

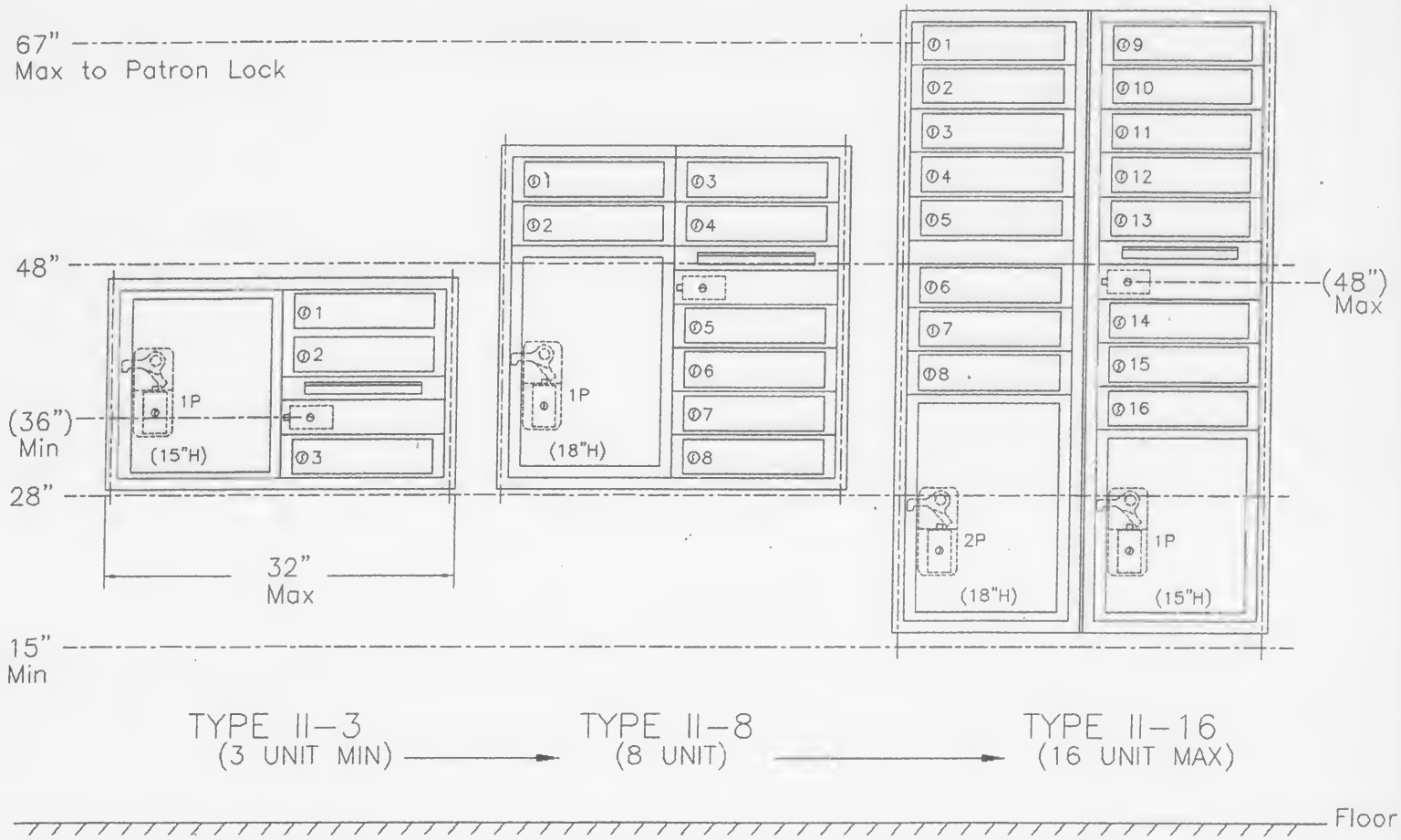
7.2.3.1 *Corporate or Organizational Changes*—If any substantive part of the approved manufacturer's structure changes from what existed when the manufacturer became approved, the manufacturer shall promptly notify the USPS and will be subject to a reevaluation of their approved product(s) and/or quality system. Examples of substantive structural changes include the following: change in ownership, executive or quality management; major change in quality policy or procedures; relocation of manufacturing facilities; major equipment or manufacturing process change (*e.g.*, outsourcing vs. inplant fabrication); etc. Notification of such changes must be sent to the address in section 1.3.

BILLING CODE 7710–12–P



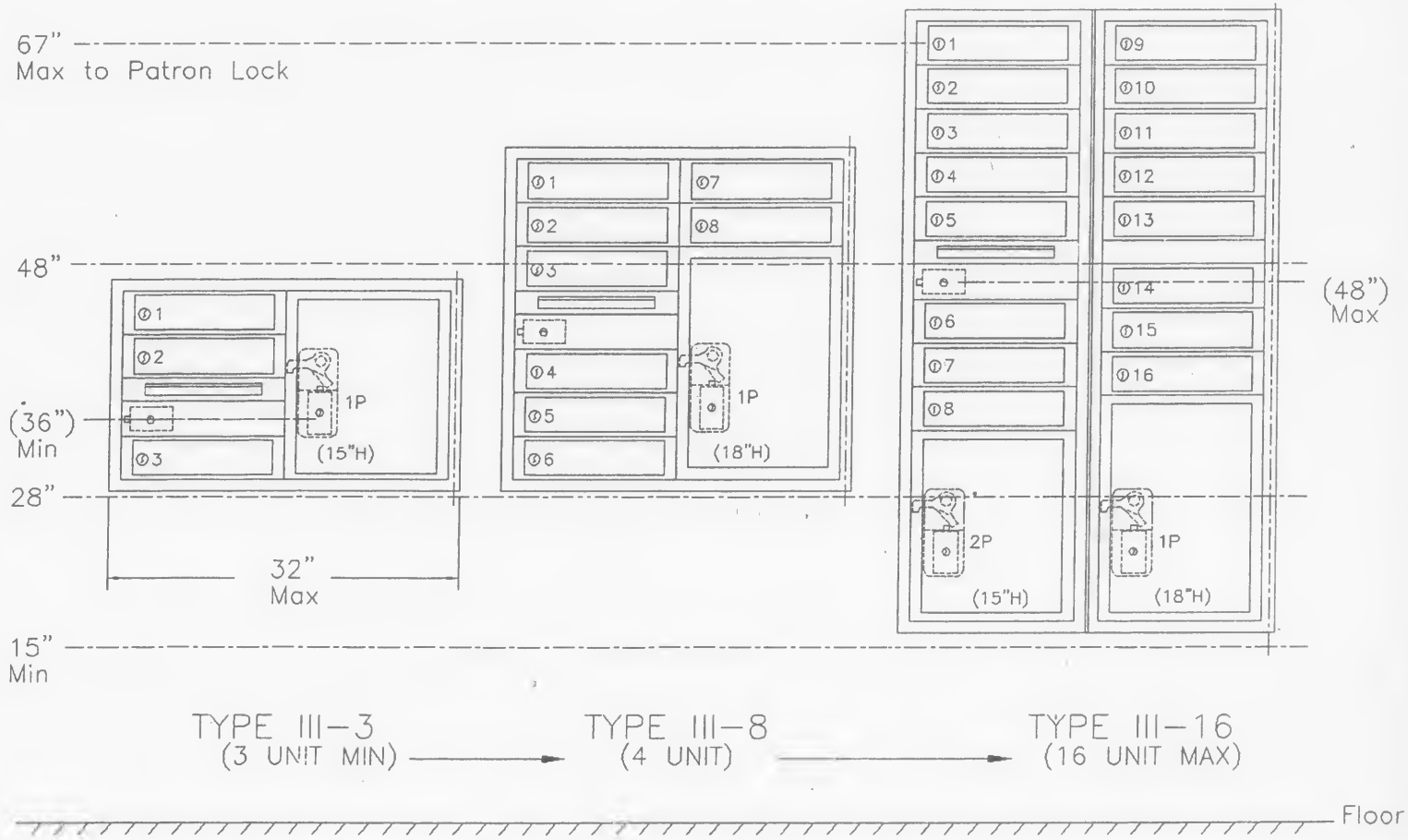
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 1 – Front Loader



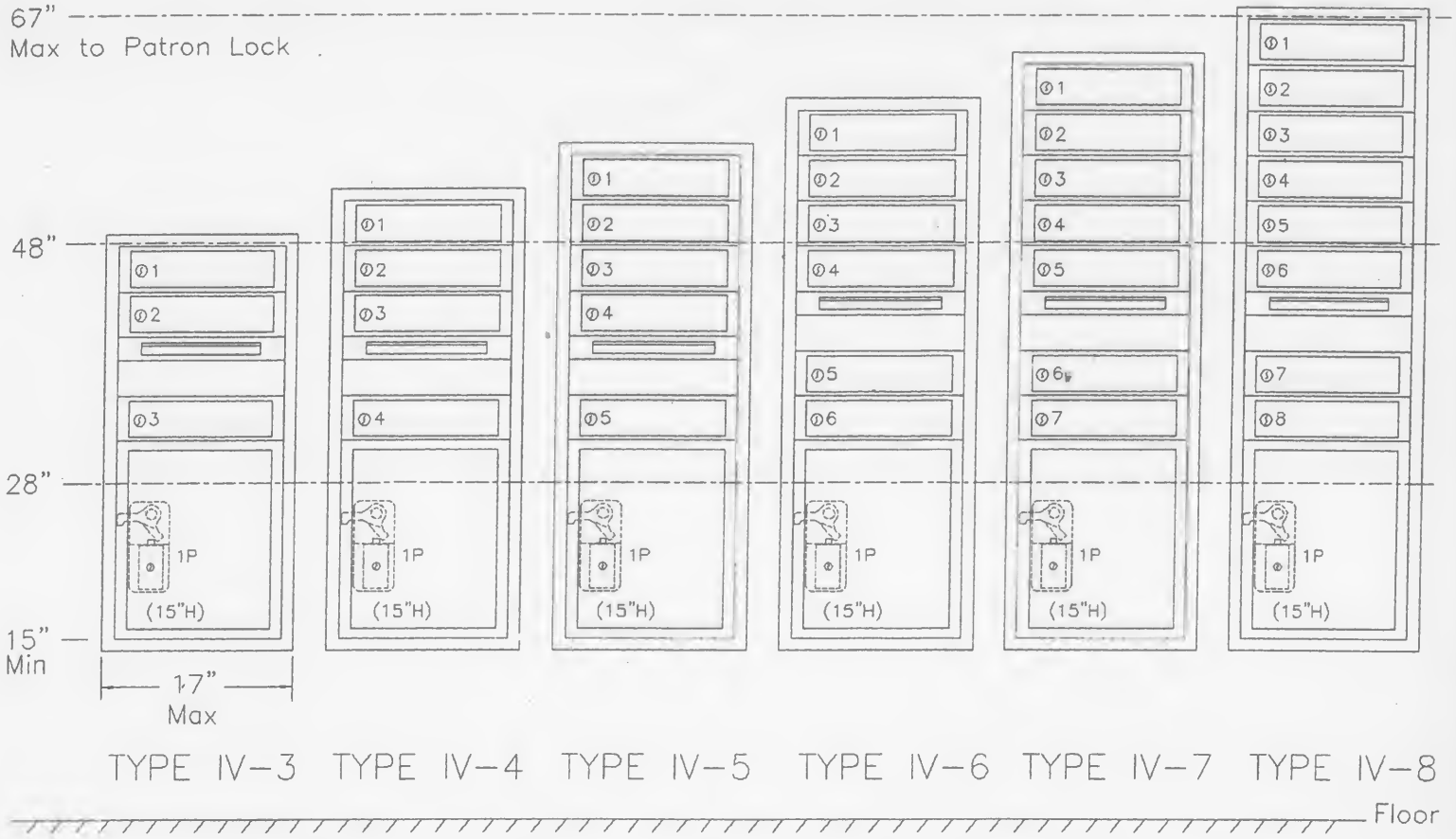
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 2 – Front Loader, Double Column & Master Door



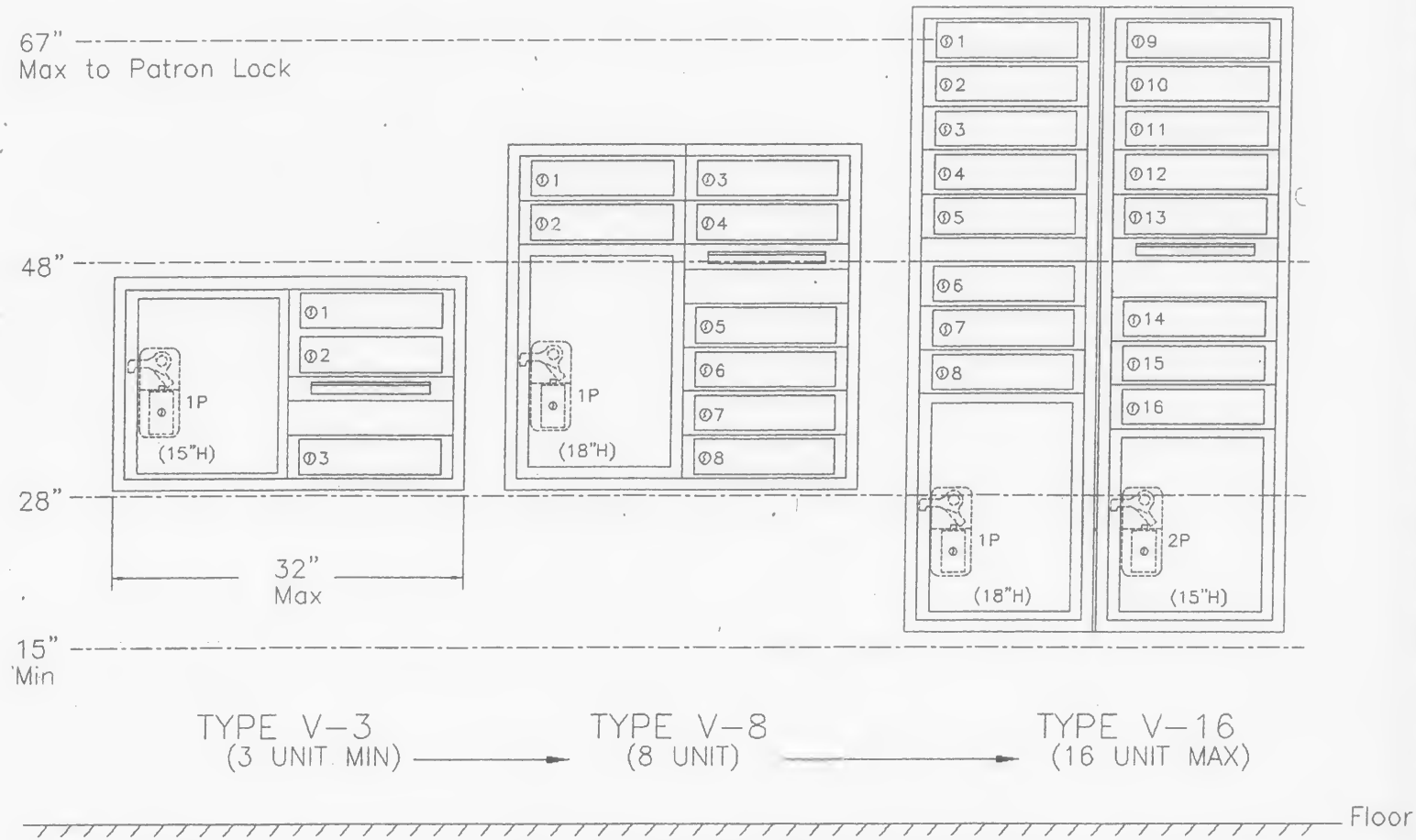
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 3 – Front Loader, Double Column Single Master Door



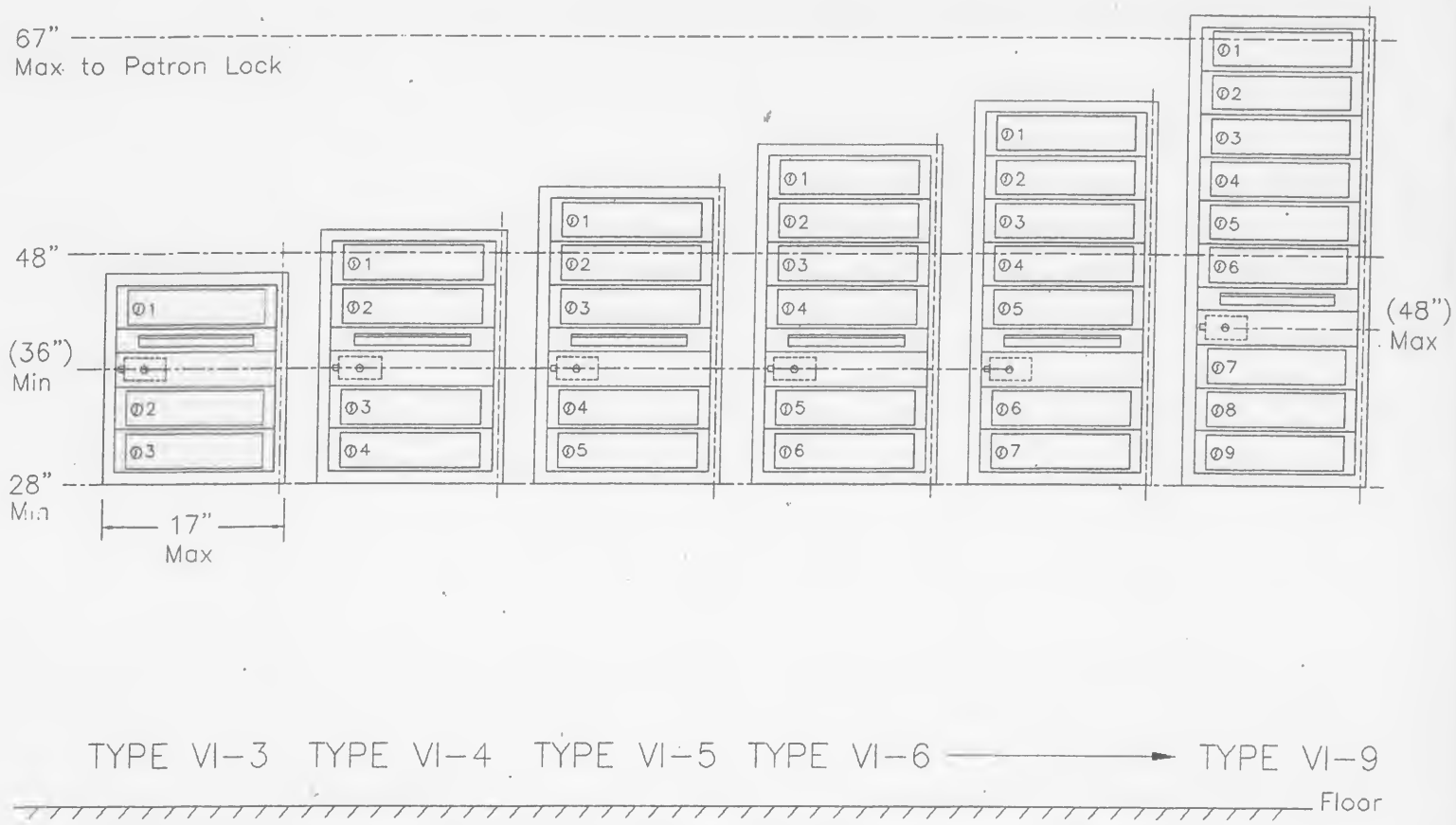
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 4 – Rear Loader, Single Column



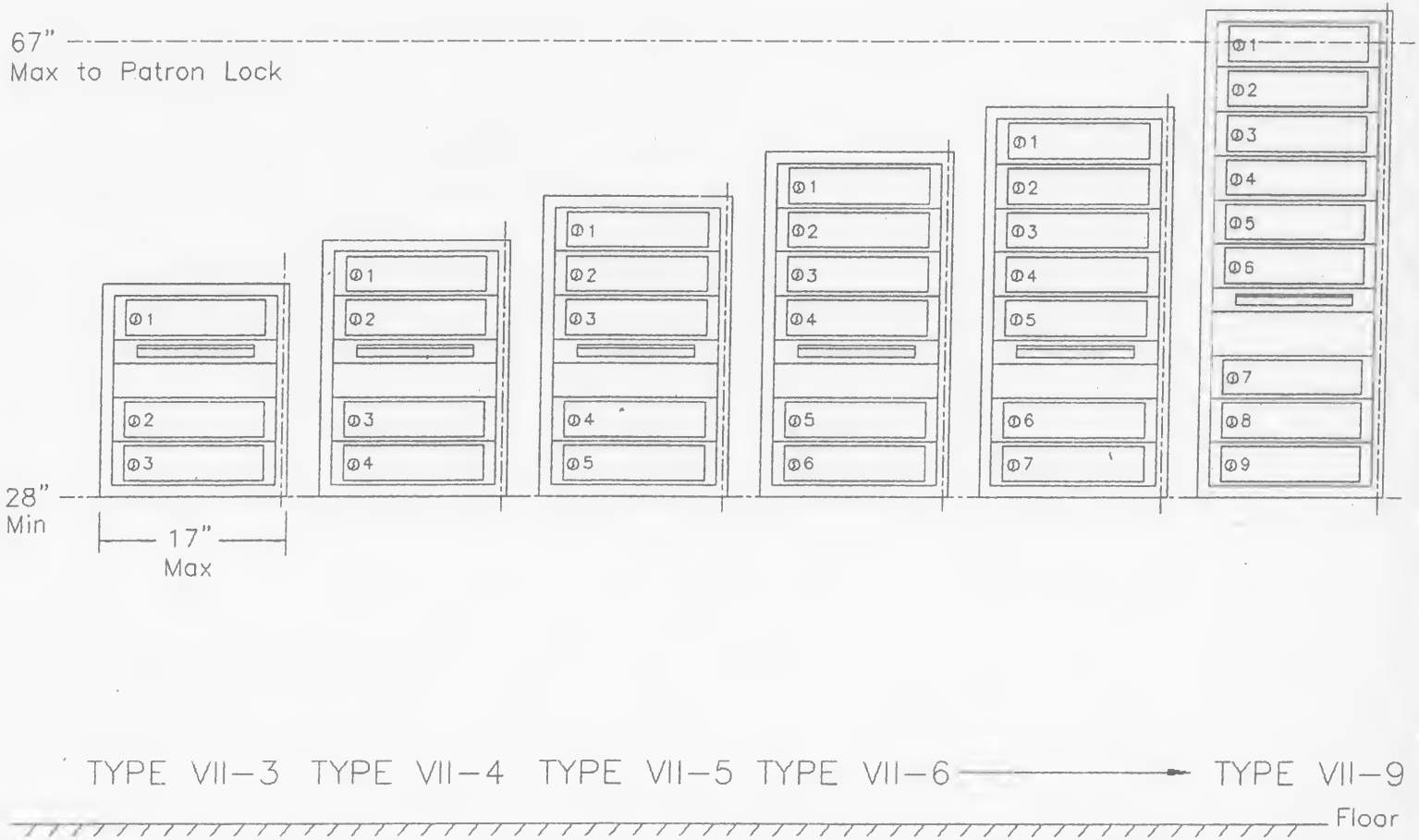
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lack shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 5 – Rear Loader, Double Column



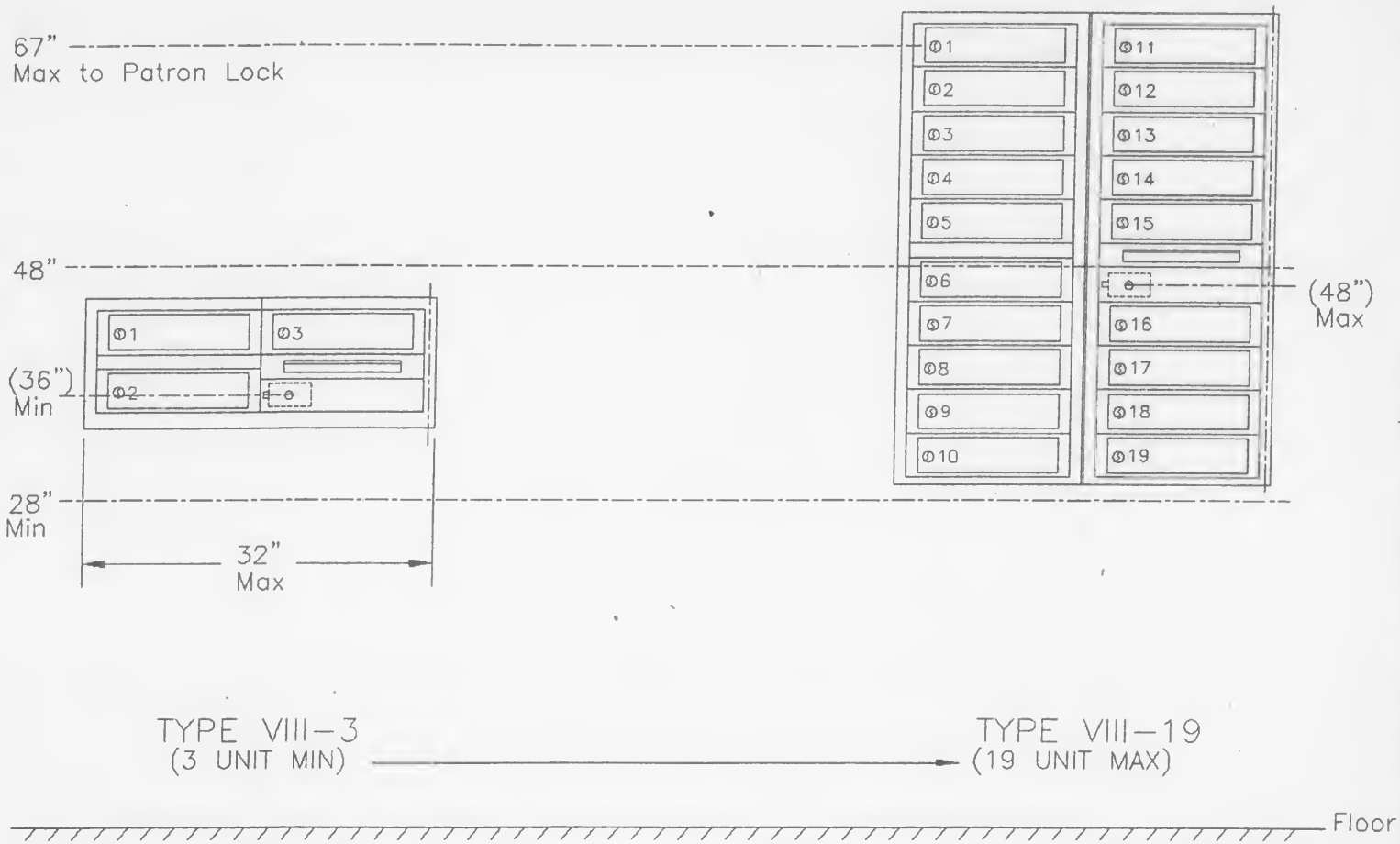
Notes -- All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 6 – Front Loader, Single Column (No Parcel Compartment)



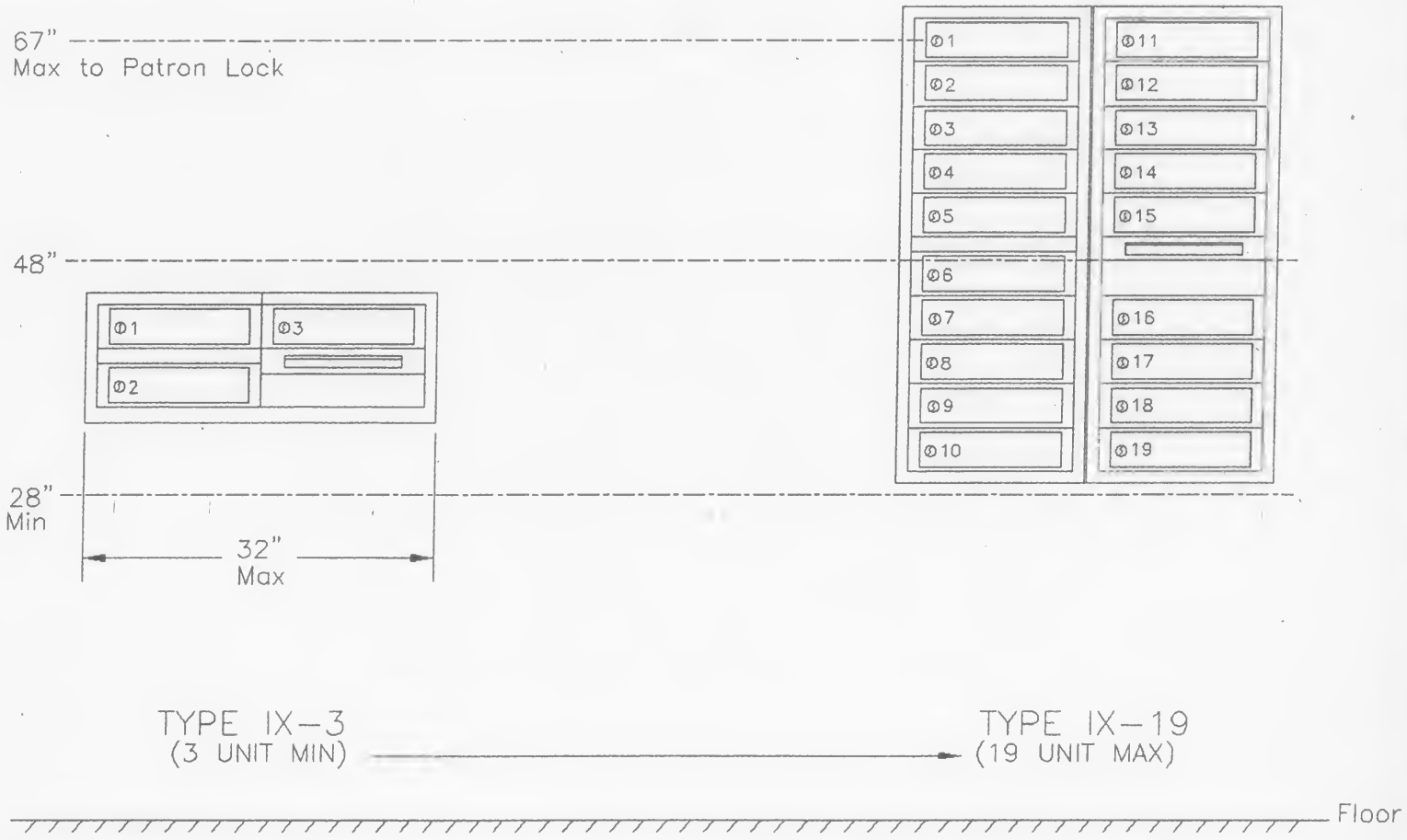
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.

Figure 7 – Rear Loader, Single Column (No Parcel Compartment)



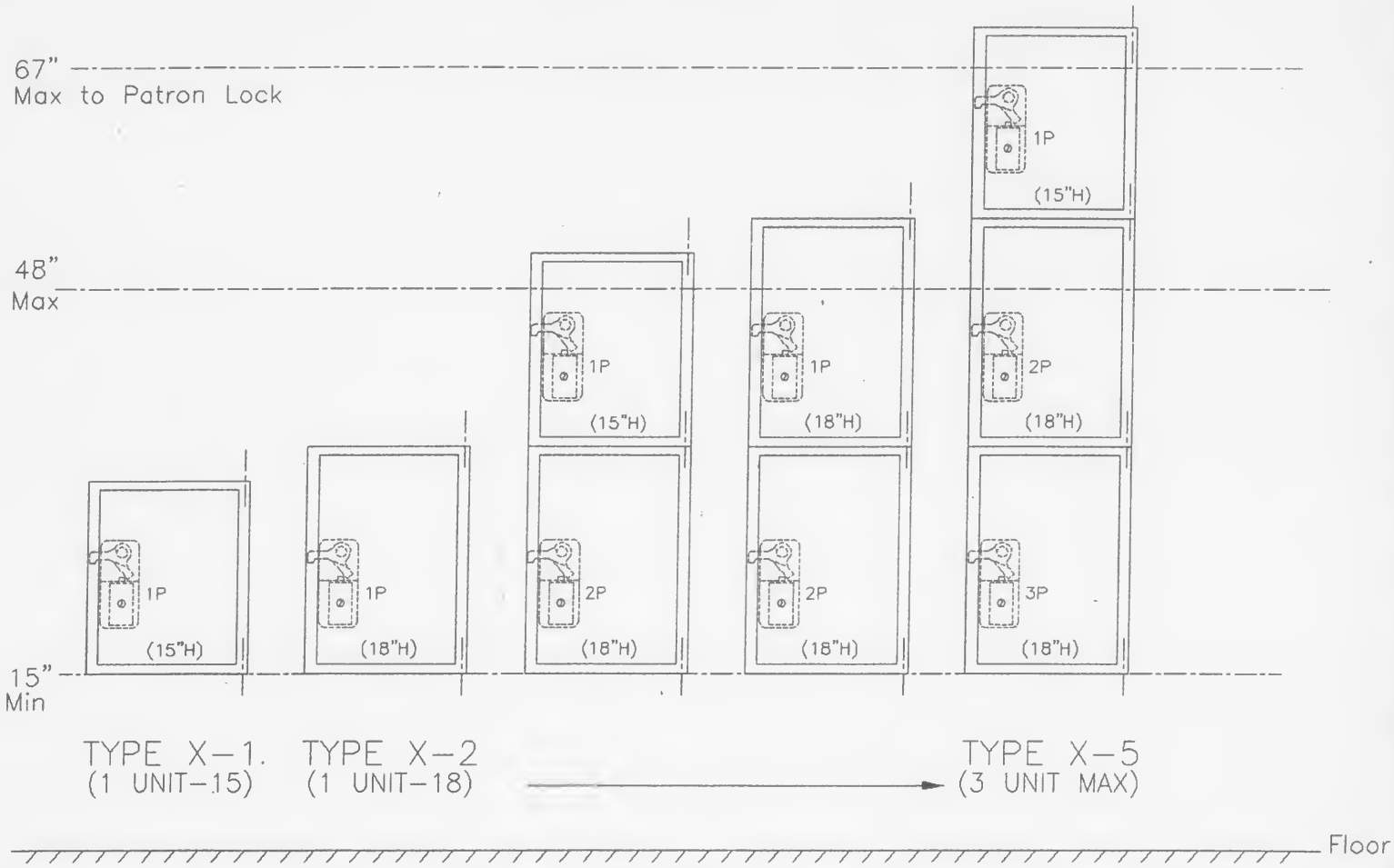
Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 8 – Front Loader, Double Column & Master Door (No Parcel Compartment)



Notes – All units shall be designed such that they are in compliance with the following installation requirements:
1. At least one customer compartment shall be positioned less than 48 inches from the finished floor.
2. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
3. No patron lock shall be located more than 67 inches above the finished floor.
4. No customer compartment (interior bottom shelf) shall be positioned less than 28 inches from the finished floor.
5. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

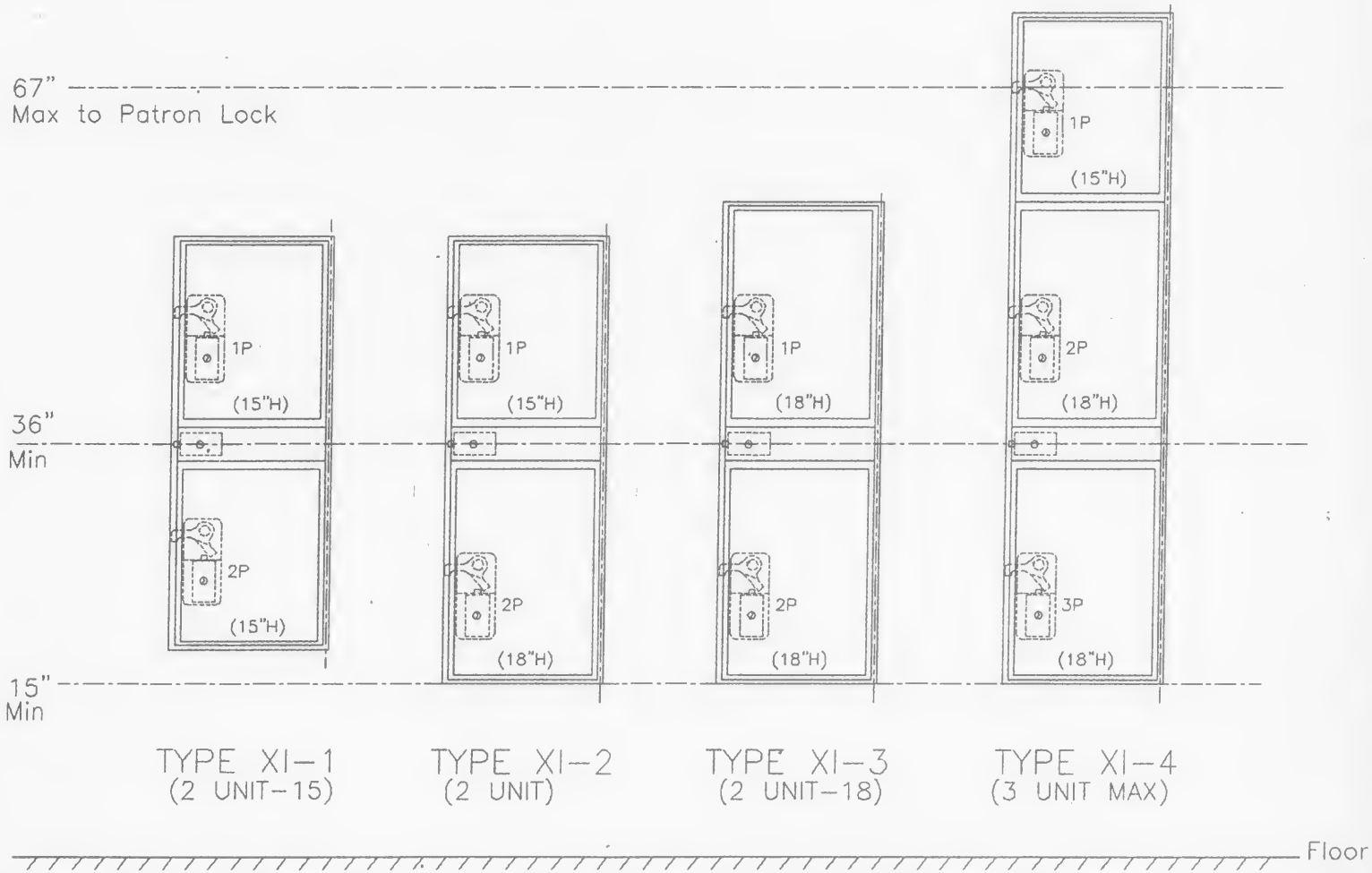
Figure 9 – Rear Loader, Double Column (No Parcel Compartment)



Notes – All units shall be designed such that they are in compliance with the following installation requirements:

1. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
2. No patron lock shall be located more than 67 inches above the finished floor.
3. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

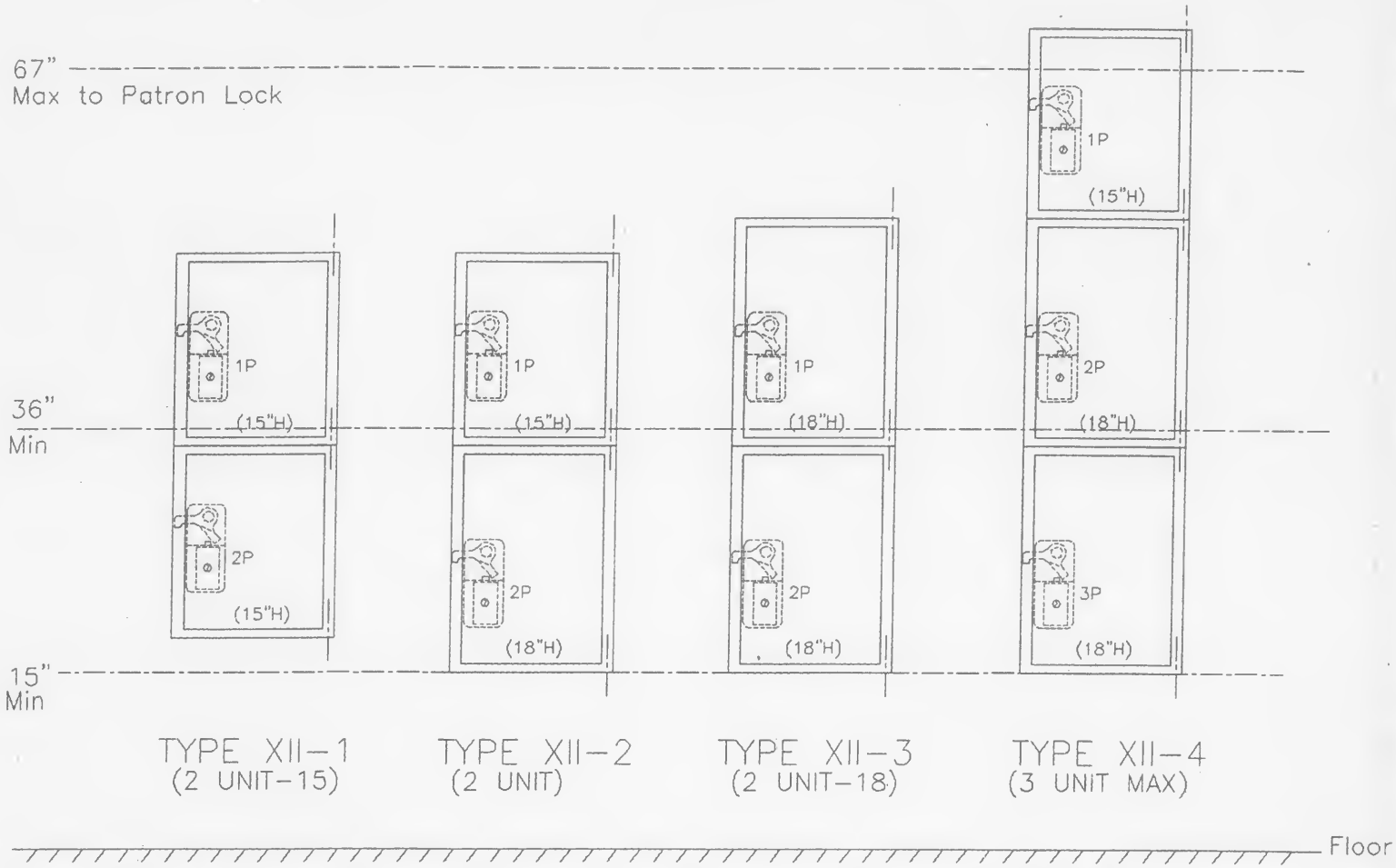
Figure 10 – Front Loader, Parcel Only (No Master Door)



Notes – All units shall be designed such that they are in compliance with the following installation requirements:

1. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
2. No patron lock shall be located more than 67 inches above the finished floor.
3. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 11 – Front Loader, Parcel Only (Master Door)

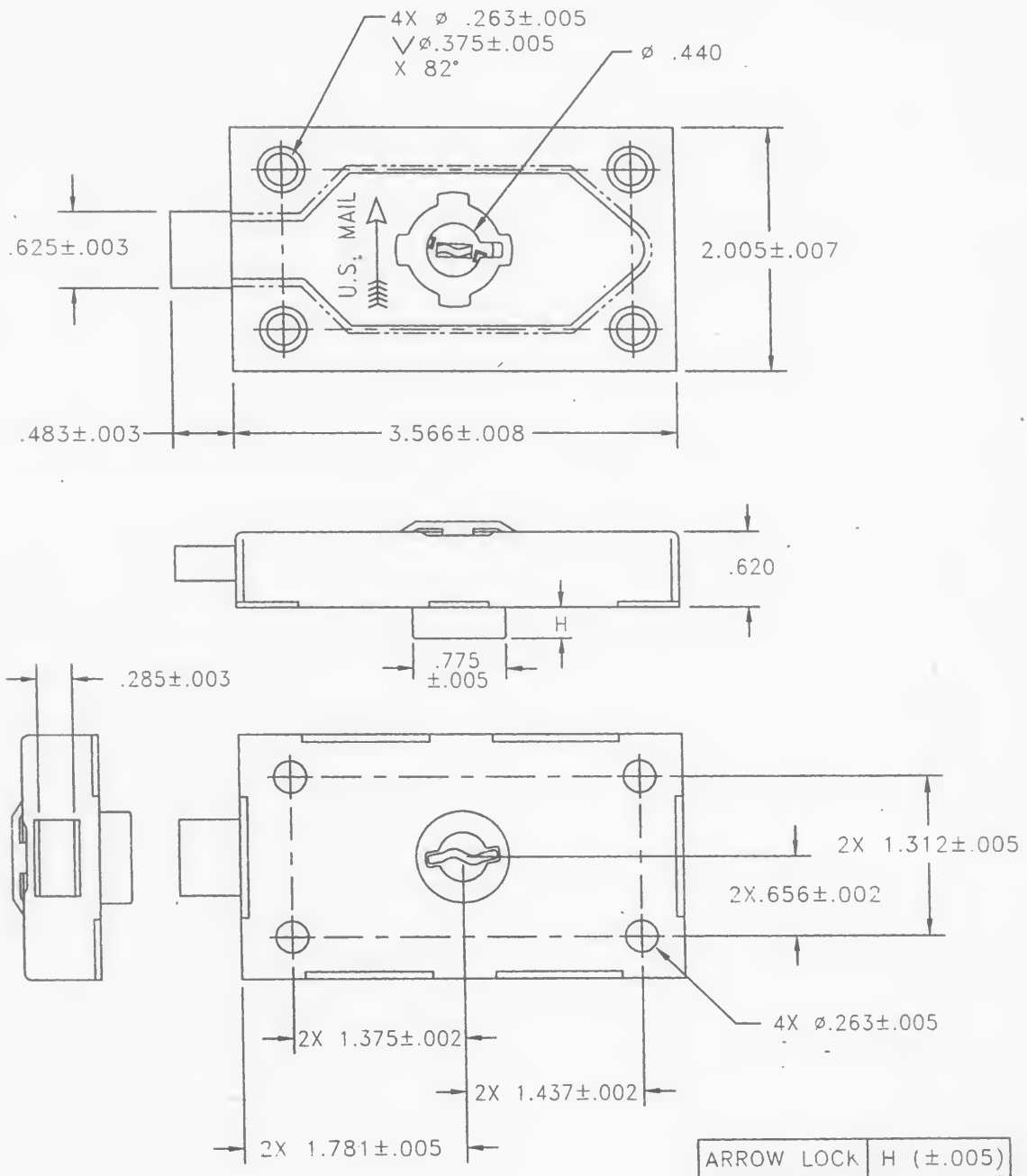


Notes – All units shall be designed such that they are in compliance with the following installation requirements:

1. No parcel locker compartment (interior bottom shelf) shall be positioned less than 15 inches from the finished floor.
2. No patron lock shall be located more than 67 inches above the finished floor.
3. The USPS Arrow lock shall be located between 36 and 48 inches above the finished floor.

Figure 12 – Rear Loader, Parcel Only

Figure 13. Arrow Lock Assembly



ARROW LOCK	H (±.005)
STANDARD	.275
MODIFIED	.375

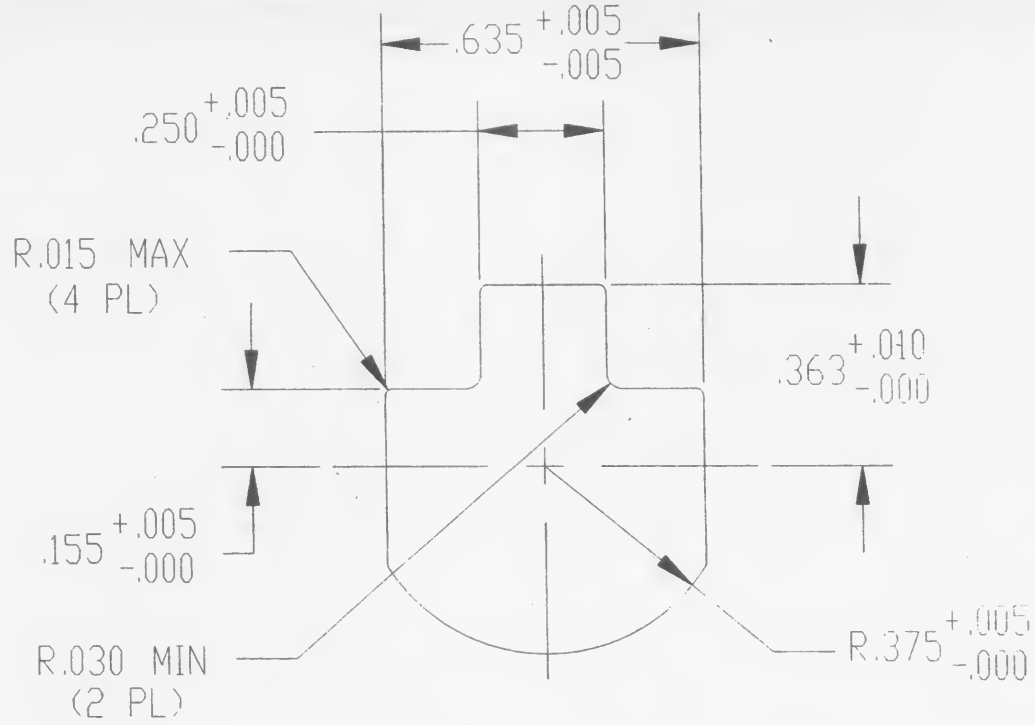


Figure 14. Mounting Hole, PSIN 0910 Customer Lock

BILLING CODE 7710–12–C

Appendix A

USPS Approved Independent Test Laboratories

(1) ACTS Test Labs, Contact: Dennis MacLaughlin, Phone: 716–505–3547 Fax: 716–505–3301, 100 Northpointe Parkway, Buffalo, NY 14228–1884.

(2) The Coatings Lab, Contact: Tom Schwerdt, Phone: 713–981–9368 Fax: 713–776–9634, 10175 Harwin Drive, Suite 110, Houston, TX 77036.

(3) Ithaca Materials Research & Testing, Inc. (IMR), Contact: Jeff Zerilli, Vice President, Phone: 607–533–7000, Lansing Business and Technology Park, 31 Woodsedge Drive, Lansing, NY 14882.

(4) Independent Test Laboratories, Inc., Contact: Robet Bouvier, Phone: 800–962-Test Fax: 714–641–3836, 1127B Baker Street, Costa Mesa, CA 92626.

(5) Midwest Testing Laboratories, Inc., Contact: Cherie Ulatowski, Phone: 248–689–9262, Fax: 248–689–7637, 1072 Wheaton, Troy, MI 48083.

Note: Additional test laboratories may be added provided they satisfy USPS certification criteria. Interested laboratories should contact: USPS, Engineering, Test Evaluation & Quality, 8403 Lee Highway, Merrifield, VA 22082–8101.

The Postal Service will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 04–19781 Filed 9–2–04; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–121–CORR; FRL–7807–2]

Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM–10

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action corrects language in Title 40 of the Code of Federal Regulations that appeared in a final rule published in the **Federal Register** on May 26, 2004, relating to the particulate matter (PM–10) State Implementation Plan (SIP) for the San Joaquin Valley portion of California.

DATES: *Effective Date:* This action is effective October 4, 2004.

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972–3959, *lo.doris@epa.gov*.

SUPPLEMENTARY INFORMATION: On May 26, 2004 (69 FR 30006), EPA published a final rule approving the "2003 PM10 Plan, San Joaquin Valley Plan to Attain Federal Standards for Particulate Matter 10 Microns and Smaller," submitted on August 19, 2003, and amendments to that plan submitted on December 30, 2003 (collectively, "2003 PM–10 Plan"), as meeting the Clean Air Act (CAA) requirements applicable to the San Joaquin Valley (SJV) nonattainment area for particulate matter of ten microns or less (PM–10). The final rule contained amendments to 40 CFR part 52, subpart F. The final rule, which incorporated material by reference in Sec. 52.220, Identification of plan, inadvertently omitted a paragraph relating to the following submittal, which was incorporated by reference in the 2003 PM–10 Plan and approved by EPA in the May 26, 2004 action: Appendix E ("Regional Transportation Planning Agency Commitments for Implementation") to the "Amended 2002 and 2005 Ozone Rate of Progress Plan for San Joaquin Valley," adopted on December 19, 2002, and submitted by the California Air Resources Board on April 10, 2003.[1] In the May 26, 2004 action, EPA approved these materials as Transportation Control Measures (TCMs), which were explicitly included by reference in the 2003 PM–10 Plan in order to address the Best Available Control Measure (BACM) provisions for PM–10 with respect to TCMs. See 69 FR 30020–21, and 30035. In today's action, Appendix E of the April 10, 2003 submittal is being added in its entirety to 40 CFR 52, subpart F, as new paragraph (c)(330)(i)(A)(*1*). This action makes no other corrections to the May 26, 2004 final rule.

In this action, EPA is simply correcting an omission and amending the regulatory language accordingly. The affected provisions were previously subject to notice and comment prior to EPA approval. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 13, 2004.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(330) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(330) The following plan was submitted on April 10, 2003 by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Amended 2002 and 2005 Ozone Rate of Progress Plan for San Joaquin Valley, adopted on December 19, 2002.

(*i*) Appendix E, "Regional Transportation Planning Agency Commitments for Implementation."

* * * * *

[FR Doc. 04–20136 Filed 9–2–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7843]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency

[1] The San Joaquin Valley Unified Air Pollution Control District mistakenly identified these materials as "Appendix F" in the Table of Contents to the April 10, 2003 submittal, but the document itself is titled "Appendix E." In the May 26, 2004 final rule, EPA refers to the ozone ROP plan in some places as the "2002 Ozone ROP Plan" and in other places as the "2003 Ozone ROP Plan." The SJV Ozone ROP Plan, was originally adopted in May 2002 and submitted in September 2002, but this submittal was wholly replaced by the amended plan referenced above. The two plans contain an identical version of Appendix E. Because the ROP plan submitted in September 2002 has been replaced by the ROP plan submitted in 2003, EPA is incorporating Appendix E as included in the 2003 submittal. EPA determined that the April 10, 2003 SIP submittal was complete on September 4, 2003, pursuant to CAA section 110(k)(1)(B) and 40 CFR 51, Appendix V.

Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Mike Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

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

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

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

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region V				
Minnesota:				
Brooklyn Center, City of, Hennepin County.	270151	July 29, 1974, Emerg; February 17, 1982, Reg; September 2, 2004, Susp.	09/02/2004	09/02/2004
Brooklyn Park, City of, Hennepin County.	270152	February 5, 1974, Emerg; May 17, 1982, Reg; September 2, 2004, Susp.	do	Do.
Camplin, City of, Hennepin County	270153	March 30, 1973, Emerg; July 18, 1977, Reg; September 2, 2004, Susp.	do	Do.
Corcoran, City of, Hennepin County	270155	September 8, 1975, Emerg; January 16, 1981, Reg; September 2, 2004, Susp.	do	Do.
Crystal, City of, Hennepin County	270156	May 13, 1974, Emerg; June 1, 1978, Reg; September 2, 2004, Susp.	do	Do.
Dayton, City of, Hennepin County	270157	September 25, 1973, Emerg; February 1, 1978, Reg; September 2, 2004, Susp.	do	Do.
Deephaven, City of, Hennepin County	270158	September 4, 1974, Emerg; December 26, 1978, Reg; September 2, 2004, Susp.	do	Do.
Eden Prairie, City of, Hennepin County	270159	May 16, 1975, Emerg; September 27, 1985, Reg; September 2, 2004, Susp.	do	Do.
Edina, City of, Hennepin County	270160	July 27, 1973, Emerg; May 1, 1980, Reg; September 2, 2004, Susp.	do	Do.
Excelsior, City of Hennepin County	270161	May 20, 1974, Emerg; March 20, 1981, Reg; September 2, 2004, Susp.	do	Do.
Greenfield, City of, Hennepin County	270673	December 26, 1974, Emerg; April 15, 1981, Reg; September 2, 2004, Susp.	do	Do.
Greenwood, City of, Hennepin County	270164	July 25, 1975, Emerg; December 26, 1978, Reg; September 2, 2004, Susp.	do	Do.
Hanover, City of, Hennepin and Wright Counties.	270540	October 25, 1974, Emerg; May 5, 1981, Reg; September 2, 2004, Susp.	do	Do.
Hopkins, City of, Hennepin County	270166	May 2, 1974, Emerg; May 5, 1981, Reg; September 2, 2004, Susp.	do	Do.
Independence, City of, Hennepin County.	270167	January 28, 1975, Emerg; January 6, 1983, Reg; September 2, 2004, Susp.	do	Do.
Long Lake, City of, Hennepin County	270168	May 2, 1975, Emerg; February 20, 1979, Reg; September 2, 2004, Susp.	do	Do.
Loretto, City of, Hennepin County	270659	May 29, 1975, Emerg; June 22, 1984, Reg; September 2, 2004, Susp.	do	Do.
Maple Plain, City of, Hennepin County	270170	October 24, 1975, Emerg; June 22, 1984, Reg; September 2, 2004, Susp.	do	Do.
Medicine Lake, City of, Hennepin County.	270690	December 21, 1978, Emerg; April 15, 1982, Reg; September 2, 2004, Susp.	do	Do.
Medina, City of, Hennepin County	270171	July 18, 1975, Emerg; September 3, 1980, Reg; September 2, 2004, Susp.	do	Do.
Minneapolis, City of, Hennepin County	270172	March 23, 1973, Emerg; February 18, 1981, Reg; September 2, 2004, Susp.	do	Do.
Minnetonka, City of, Hennepin County	270173	April 9, 1975, Emerg: May 19, 1981, Reg; September 2, 2004, Susp.	do	Do.
Minnetonka Beach, City of, Hennepin County.	270174	June 9, 1975, Emerg; June 22, 1984, Reg; September 2, 2004, Susp.	do	Do.
Minnetrista, City of, Hennepin County	270175	September 12, 1978, Emerg; September 27, 1985, Reg; September 2, 2004, Susp.	do	Do.
New Hope, City of, Hennepin County	270177	July 2, 1975, Emerg; January 2, 1981, Reg; September 2, 2004, Susp.	do	Do.
Orono, City of, Hennepin County	270178	February 24, 1975, Emerg; October 17, 1978, Reg; September 2, 2004, Susp.	do	Do.
Plymouth, City of, Hennepin County	270179	April 15, 1974, Emerg; May 15, 1978, Reg; September 2, 2004, Susp.	do	Do.
Richfield, City of, Hennepin County	270180	April 22, 1975, Emerg; August 24, 1981, Reg; September 2, 2004, Susp.	do	Do.
Robbinsdale, City of, Hennepin County	270181	May 9, 1974, Emerg; August 1, 1977, Reg; September 2, 2004, Susp.	do	Do.
Rockford, City of, Hennepin County	270182	February 5, 1975, Emerg; November 1, 1979, Reg; September 2, 2004, Susp.	do	Do.
Shorewood, City of, Hennepin County	270185	April 8, 1975, Emerg; December 4, 1979, Reg; September 2, 2004, Susp.	do	Do.
Spring Park, City of, Hennepin County	270186	July 16, 1975, Emerg; May 1, 1979, Reg; September 2, 2004, Susp.	do	Do.
St. Anthony, City of, Hennepin County	270716	February 26, 1998, Emerg; September 2, 2004, Reg; September 2, 2004, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
St. Bonifacius, City of, Hennepin County.	270183	April 22, 1976, Emerg; December 26, City 1978, Reg; September 2, 2004, Susp.	.....do	Do.
St. Louis Park City, of, Hennepin County.	270184	December 22, 1972, Emerg; June 1, 1977, Reg; September 2, 2004, Susp.	.....do	Do.
Tonka Bay, City of, Hennepin County ...	270187	January 17, 1975, Emerg; May 1, 1979, Reg; September 2, 2004, Susp.	.....do	Do.
Wayzata, City of, Hennepin County	270188	November 25, 1974, Emerg; November, 1, 1979, Reg; September 2, 2004, Susp.	.....do	Do.
Woodland, City of, Hennepin County	270189	June 11, 1975, Emerg; August 1, 1979, Reg; September 2, 2004, Susp.	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: August 26, 2004.

David I. Maurstad,

Acting Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–20099 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[USCG–2001–8825]

RIN 1625–AA28 (Formerly RIN 2115–AG08)

Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade

AGENCY: Coast Guard, DHS.

ACTION: Final rule; announcement of effective date.

SUMMARY: In the final rule with this same title published February 4, 2004, we noted that the Office of Management and Budget (OMB) had not approved a collection-of-information associated with the amendments by §§ 67.147 and 67.179 to the collection-of-information requirements for vessel owners and charterers applying to engage in the coastwise trade under the lease financing provisions of 46 U.S.C. 12106(e). OMB has since approved that collection-of-information and the portions of the rule with these requirements will become effective September 3, 2004.

DATES: 46 CFR 67.147 and 46 CFR 67.179, as published February 4, 2004 (69 FR 5390), are effective September 3, 2004.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304–271–2506. If you have questions on viewing the docket (USCG–2001–8825), call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION: Section 67.147 of title 46 of the Code of Federal Regulations (CFR) requires a vessel owner who seeks a coastwise endorsement to submit a certified application and in some cases supporting documentation. Section 67.179 of title 46 of the CFR requires a barge owner qualified to engage in coastwise trade under the lease-financing provisions of 46 U.S.C. 12106(e) to submit a certified application for the coastwise operation of a barge under a demise charter. Submitting applications is a collection-of-information under OMB control no. 1625–0016 (Formerly 2115–0054). The final rule that contained the provisions for applications was published in the **Federal Register** on February 4, 2004 (69 FR 5398), and is available electronically through the docket (USCG–2001–8825) Web site at *http://www.dms.dot.gov*. became effective on February 4, 2004, with the exception of § 67.147 and 67.179.

As required by 44 U.S.C. 3507(d), we submitted a copy of the final rule to OMB for its review. On July 30, 2004, after reviewing the rule, OMB approved the collection-of-information required by this final rule under OMB control no. 1625–0027.

Dated: August 27, 2004.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security, and Environmental Protection, U.S. Coast Guard.

[FR Doc. 04–20117 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[MM Docket No. 93–25; FCC 04–44]

RIN 3060–AF39

Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Direct Broadcast Satellite Public Interest Obligations

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted new rules on Political Broadcasting Requirements and Guidelines concerning Commercialization of Children's Programming and public interest obligations for Direct Broadcast Satellite providers. Certain rules contained new and modified information collection requirements and were published in the **Federal Register** on April 28, 2004. This document announces the effective date of these published rules.

DATES: The amendments to 47 CFR 25.701(d)(1)(i), 25.701(d)(1)(ii), 25.701(d)(2), 25.701(d)(3), 25.701(e)(3), 25.701 (f)(6)(i), and 25.701(f)(6)(ii) published at 69 FR 23155, April 28, 2004, are effective September 3, 2004.

SUPPLEMENTARY INFORMATION: On August 24, 2004, the Office of Management and Budget (OMB) approved the information collection requirements contained in §§ 25.701(d)(1)(i), 25.701(d)(1)(ii), 25.701(d)(2), 25.701(d)(3), 25.701(e)(3), 25.701 (f)(6)(i), and 25.701(f)(6)(ii) pursuant to OMB Control No. 3060–1065. Accordingly, the information collection requirements contained in these rules become effective September 3, 2004.

Pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Leslie F. Smith, Federal Communications Commission, (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–20164 Filed 9–2–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.040326103–4239–03; I.D. 031504A]

RIN 0648–AQ82

Fisheries of the Northeastern United States; Summer Flounder Recreational Fishery; Fishing Year 2004; New York Measures

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

ACTION: Final rule.

SUMMARY: NMFS announces approval of conservation equivalent recreational management measures for summer flounder in New York for the remainder of 2004. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

DATES: Effective August 31, 2004.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The summer flounder conservation equivalency determination process is described in the preamble of the final rule to implement Framework Adjustment 2 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) (66 FR 36208, July 11, 2001), and in the preamble to the proposed rule to implement the 2004 recreational management measures for summer flounder, scup, and black sea bass (69 FR 19805, April 14, 2004).

NMFS published a final rule in the **Federal Register** on July 13, 2004 (69 FR 41980), implementing recreational management measures for the summer flounder, scup, and black sea bass fisheries for 2004. Based on the recommendation of the Atlantic States Marine Fisheries Commission (Commission), for states other than New York, NMFS determined that the summer flounder recreational fishing measures proposed to be implemented by the states for 2004 were the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. Pursuant to the regulation at § 648.107(a)(1), vessels subject to the Federal recreational summer flounder fishing measures and landing summer flounder in one of the states with an approved conservation equivalency program are not subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b), and instead are subject to the recreational fishing measures implemented by the state in which they land. Pursuant to § 648.107(b), federally permitted vessels subject to the recreational summer flounder fishing measures and other recreational fishing vessels, registered in states and subject to the Federal recreational summer flounder fishing measures, that land in New York were subject to the following precautionary default measures: An open season January 1 through December 31; a minimum size of 18 inches (45.7 cm) total length; and a possession limit of one fish. The precautionary default measures are defined as the measures that would achieve at least the overall required reduction in landings for each state.

The Commission has notified NMFS that, effective July 30, 2004, New York implemented emergency regulations that are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. With regard to New York, based on Commission approval of the state's emergency measures, NMFS announces a waiver of the permit condition at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Therefore, effective immediately, federally permitted charter/party vessels and recreational vessels fishing for summer flounder in the Exclusive Economic Zone (EEZ) and landing in New York are subject to the recreational management measures as implemented by New York, i.e., an 18–inch (45.7–cm) minimum size, a 3–fish possession limit, and an open season of May 15 through September 6. NMFS amends § 648.107(a) to indicate that the recreational management measures implemented by the States of Massachusetts through North Carolina have been determined to be the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. The table below replaces Table 2 as published in the recreational management measures final rule on July 13, 2004 (69 FR 41980).

2004 State Recreational Management Measures for Summer Flounder

State	Minimum Size (inches)	Minimum Size (cm)	Possession Limit (number of fish)	Open Season
MA	16.5	41.9	7	Year-Round.
RI	17.5	44.5	7	April 1 through December 31.
CT	17	43.2	6	Year-Round.
NY	18	45.7	3	May 15 through September 6.
NJ	16.5	41.9	8	May 8 through October 11.
DE	17.5	44.5	4	Year-Round.
MD	16	40.6	3	Year-Round.
VA	17	43.2	6	March 29 through December 31.
NC	14	35.6	8	Year-Round.

Classification

This action is required by 50 CFR part 648. This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule follows a rulemaking that implemented the recreational specifications for the 2004 summer flounder fishery. Coincidental with soliciting comments on the actual recreational specifications of possession limit, minimum size, and season, the public was invited to comment on the prospect of implementing the recreational measures through the conservation equivalency mechanism as opposed to implementing them as Federal coastwide measures. Conservation equivalency allows states with recreational management plans approved by the Commission's Summer Flounder Technical Committee and the Administrator, Northeast Region, NMFS (Regional Administrator) to implement a modified possession limit, minimum size, and season provided it achieves such state's required reduction in recreational fishing effort. This enables states to tailor their measures to a degree to address the differing circumstances of their fisheries occasioned by the seasonal movement of the stock or the predominance of certain sized summer flounder in their waters. Once a conservation equivalent state plan is approved, the Regional Administrator waives the application of § 648.4(b); this section of the regulations requires federally permitted vessels to abide by the stricter of the state or Federal measures. In the final rule implementing the recreational specifications, the public was advised that the recreational measures implemented by New York were not approved as a conservation equivalent plan. New York had originally submitted several recreational management plans to the Technical Committee that could have served as a basis to approve a New York plan as a conservation equivalent to the Federal coastwide measures. However, in the end, New York elected to implement less restrictive measures. Consequently, federally permitted vessels from New York are now subject to the precautionary default measures in § 648.107(b). These measures are much more restrictive than any measures implemented by New York or any of the other states. This final rule reflects that a review of a newly submitted recreational management plan by New York concluded that it is the conservation equivalent to the Federal coastwide measures. Soliciting prior comment on this rule will cause New York recreational fishermen fishing in the exclusive economic zone, particularly the party and charter boat fleet, to forego a considerable benefit. The New York recreational fishery is scheduled to close on September 6, 2004. Prior comment on this final rule will prevent this rule from becoming effective before the closure of the New York recreational fishery. The recreational fishing measures that would be implemented for federally permitted New York vessels by this final rule allow for a greater harvest of summer flounder than the precautionary default measures that will remain in effect until this final rule is implemented. Therefore, the Assistant Administrator for Fisheries, NOAA, finds pursuant to 5 U.S.C. 553(b) that prior notice and comment on this final rule is impracticable.

In addition, the Assistant Administrator for Fisheries, NOAA, finds, pursuant to 5 U.S.C. 553(d)(1), that this final rule relieves a restriction and, therefore, makes this rule effective immediately. The party and charter boats from New York are currently subject to the precautionary default measures. These precautionary default measures result in a decrease in recreational fishing effort well in excess of the 48.5 percent that the New York measures must achieve to be considered the conservation equivalent of the Federal coastwide measures. As noted above, these measures are far more restrictive than the measures that will be in effect in New York waters as a result of this rule or to which vessels from other states fishing in the exclusive economic zone are subject.

A Final Regulatory Flexibility Analysis was prepared, pursuant to 5 U.S.C. 604(a), as part of the final rule to implement the 2004 recreational management measures for the summer flounder, scup, and black sea bass fisheries (69 FR 41980, July 13, 2004).

A small entity compliance guide will be sent to all holders of New York Federal party/charter permits issued for the summer flounder fisheries. In addition, copies of this notice and guide (i.e., permit holder letter) are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.nero.noaa.gov.*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 30, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.107, paragraph (a) introductory text is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the States of Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Delaware, Maryland, Virginia, and North Carolina for 2004 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

[FR Doc. 04–20141 Filed 8–31–04; 3:14 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 171
Friday, September 3, 2004

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM287; Notice No. 25–04–02–SC]

Special Conditions: Airbus Model A330, A340–200 and A340–300 Series Airplanes; Lower Deck Mobile Crew Rest (LD–MCR) Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This document proposes special conditions for Airbus Model A330, A340–200 and A340–300 series airplanes. These airplanes will have novel or unusual design features associated with a lower deck mobile crew rest (LD–MCR) compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed 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: Comments must be received on or before October 4, 2004.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM287, 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. NM287. 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: Tim Backman, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

Background

On March 20, 2003, Airbus applied for a change to Type Certificate Numbers A46NM and A43NM to permit installation of an LD–MCR compartment in Airbus Model A330, A340–200, and A340–300 series airplanes.

The LD–MCR compartment will be located under the passenger cabin floor in the aft cargo compartment of Airbus Model A330, A340–200 and A340–300 series airplanes. It will be the size of a standard airfreight container and will be removable from the cargo compartment. The LD–MCR compartment will be occupied in flight but not during taxi, takeoff or landing. No more than seven crewmembers at a time will be permitted to occupy it. The LD–MCR compartment will have a smoke detection system, a fire extinguishing system and an oxygen system.

The LD–MCR compartment will be accessed from the main deck via a "stairhouse." The floor within the stairhouse has a hatch that leads to stairs which occupants use to descend into the LD–MCR compartment. An interface will keep this hatch open when the stairhouse door is open. In addition, there will be an emergency hatch which opens directly into the main passenger cabin. The LD–MCR compartment has a maintenance door which allows access to and from the cargo compartment. This door is intended to be used when the airplane is not in flight for cargo loading through the LD–MCR compartment and for maintenance personnel access to the airplane through the LD–MCR compartment from the cargo compartment.

Type Certification Basis

Under the provisions of § 21.101, Airbus must show that Airbus Model A330, A340–200, and A340–300 series airplanes, as changed, continue to meet (1) the applicable provisions of the regulations incorporated by reference in A46NM (for Airbus Model A330) and in A43NM (for Airbus Model A340–200 and A340–300 series airplanes) or (2) 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 A46NM and A43NM are as follows:

The certification basis for Airbus Models A330–300, A340–200, and A340–300 series airplanes is 14 CFR part 25, as amended by Amendments 25–1 through 25–63; certain regulations at later Amendments 25–65, 25–66, and 25–77; and Amendment 25–64 with exceptions. Refer to Type Certificate Data Sheet (TCDS) A46NM or A43NM, as applicable, for a complete description of the certification basis for these models, including certain special conditions that are not relevant to these proposed special conditions.

The certification basis for Airbus Model A330–200 series airplanes is 14 CFR part 25, as amended by Amendments 25–1 through 25–63, 25–65, 25–66, 25–68, 25–69, 25–73, 25–75, 25–77, 25–78, 25–81, 25–82, 25–84 and

25–85; certain regulations at Amendments 25–72 and 25–74; and Amendment 25–64 with exceptions. Refer to TCDS A46NM for a complete description of the certification basis for that model, including certain special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for Airbus Model A330, A340 –200, and A340–300 series airplanes 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, Airbus Model A330, A340–200, and A340–300 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and with the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the "Noise Control Act of 1972."

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 type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

While the installation of a LD–MCR compartment is not a new concept for large transport category airplanes, each crew rest compartment has unique features based on design, location, and use on the airplane. The LD–MCR compartment is novel in regards to part 25 in that it will be located below the passenger cabin floor in the aft cargo compartment of Airbus Model A330, A340–200, and A340–300 series airplanes. Due to the novel or unusual features associated with the installation of a LD–MCR compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificates of these airplanes. These special conditions do not negate the need to address other applicable part 25 regulations.

Operational Evaluations and Approval

These special conditions specify requirements for design approvals (*i.e.*, type design changes and supplemental type certificates) of LD–MCR compartments administered by the FAA's Aircraft Certification Service. Prior to operational use of a LD–MCR compartment, the FAA's Flight Standards Service, Aircraft Evaluation Group (AEG), must evaluate and approve the "basic suitability" of the LD–MCR compartment for occupation by crewmembers. If an operator wishes to utilize a LD–MCR compartment as "sleeping quarters," the LD–MCR compartment must undergo an additional operational evaluation and approval.

To obtain an operational evaluation, the type design holder must contact the AEG within the Flight Standards Service which has operational approval authority for the project. In this instance, it is the Seattle AEG. The type design holder must request a "basic suitability" evaluation or a "sleeping quarters" evaluation of the crew rest.

The results of these evaluations will be documented in the A330, A340–200 and A340–300 Flight Standardization Board (FSB) Report Appendix. In discussions with their FAA Principal Operating Inspector (POI), individual operators may reference these standardized evaluations as the basis for an operational approval, in lieu of an on-site operational evaluation.

An operational re-evaluation and approval will be required for any changes to the approved LD–MCR compartment configuration, if the changes affect procedures for emergency egress of crewmembers, other safety procedures for crewmembers occupying the LD–MCR compartment, or training related to these procedures. The applicant for any such change is responsible for notifying the Seattle AEG that a new crew rest evaluation is required.

All instructions for continued airworthiness (ICAW), including service bulletins, must be submitted to the Seattle AEG for approval acceptance before the FAA issues its approval of the modification.

Discussion of the Proposed Special Conditions

The following clarifies how proposed Special Condition No. 9 should be understood relative to the requirements of § 25.1439(a). Amendment 25–38 modified the requirements of § 25.1439(a) by adding the following language,

> In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane, including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation.

Section 25.1439(a) requires protective breathing equipment (PBE) in isolated separate compartments in which crewmember occupancy is permitted. But the PBE requirements of § 25.1439(a) are not appropriate in this case, because the LD–MCR compartment is novel and unusual in terms of the number of occupants.

In 1976, when Amendment 25–38 was adopted, underfloor galleys were the only isolated compartments that had been certificated, with a maximum of two crewmembers expected to occupy those galleys. Special Condition No. 9 addresses PBE requirements for LD–MCR compartments, which can accommodate up to 7 crewmembers. This number of occupants in an isolated compartment was not envisioned at the time Amendment 25–38 was adopted.

In the event of a fire, the occupant's first action should be to leave the confined space, unless the occupant(s) is fighting the fire. It is not appropriate for all LD–MCR compartment occupants to don PBE. Taking the time to don the PBE would prolong the time for the occupant's emergency evacuation and possibly interfere with efforts to extinguish the fire.

In regards to Special Condition No. 12, the FAA considers that during the one minute smoke detection time, penetration of a small quantity of smoke from the LD–MCR compartment into an occupied area on this airplane configuration would be acceptable based upon the limitations placed in these special conditions. The FAA determination considers that the special conditions place sufficient restrictions in the quantity and type of material allowed in crew carry-on bags that the threat from a fire in this remote area would be equivalent to that experienced on the main cabin.

Applicability

As mentioned above, these special conditions are applicable to Airbus Model A330, A340–200 and A340–300 series airplanes. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

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 Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus Model A330, A340–200 and A340–300 series airplanes with a lower deck mobile crew rest (LD–MCR) compartment installed under the passenger cabin floor in the aft cargo compartment.

1. Occupancy of the LD–MCR compartment is limited to the total number of installed bunks and seats in each compartment. For each occupant permitted in the LD–MCR compartment, there must be an approved seat or berth able to withstand the maximum flight loads when occupied. The maximum occupancy in the LD–MCR compartment is seven.

(a) There must be appropriate placards displayed in a conspicuous place at each entrance to the LD–MCR compartment indicating the following information:

(1) The maximum number of occupants allowed;

(2) That occupancy is restricted to crewmembers trained in the evacuation procedures for the LD–MCR compartment;

(3) That occupancy is prohibited during taxi, take-off and landing;

(4) That smoking is prohibited in the LD–MCR compartment; and

(5) That the LD–MCR compartment is limited to the stowage of personal luggage of crewmembers and must not be used for the stowage of cargo or passenger baggage.

(b) There must be at least one ashtray located conspicuously on or near the entry side of any entrance to the LD–MCR compartment.

(c) There must be a means to prevent passengers from entering the LD–MCR compartment in an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the LD–MCR compartment and the passenger cabin to be capable of being quickly opened from inside the LD–MCR compartment, even when crowding occurs at each side of the door.

(e) For all doors installed in the evacuation routes, there must be a means to preclude anyone from being trapped inside a compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of a compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the LD–MCR compartment to rapidly evacuate to the main cabin and could be closed from the main passenger cabin after evacuation.

(a) The routes must be located with one at each end of the LD–MCR compartment or with two having sufficient separation within the LD–MCR compartment and between the routes to minimize the possibility of an event (either inside or outside of the LD–MCR compartment) rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure or from persons standing on top of or against the escape route. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If a hatch is installed in an evacuation route, the point at which the evacuation route terminates in the passenger cabin should not be located where normal movement by passengers or crew occur, such as in a main aisle, cross aisle, passageway or galley complex.

If such a location cannot be avoided, special consideration must be taken to ensure that the hatch or door can be opened when a person who is the weight of a ninety-fifth percentile male is standing on the hatch or door.

The use of evacuation routes must not be dependent on any powered device. If there is low headroom at or near an evacuation route, provision must be made to prevent or to protect occupants of the LD–MCR compartment from head injury.

(c) Emergency evacuation procedures, including the emergency evacuation of an incapacitated crewmember from the LD–MCR compartment, must be established. All of these procedures must be transmitted to the operator for incorporation into its training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated crewmember who is representative of a 95th percentile male from the LD–MCR compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the LD–MCR compartment) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. For evacuation routes having stairways, the additional assistants may descend down to one half the elevation change from the main deck to the LD–MCR compartment or to the first landing, whichever is higher.

4. The following signs and placards must be provided in the LD–MCR compartment:

(a) At least one exit sign which meets the requirements of § 25.812(b)(1)(i) at Amendment 25–58 must be located near each exit. However, a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (*e.g.*, white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch wide background border around the letters would also be acceptable;

(b) An appropriate placard which defines the location and the operating instructions for each evacuation route must be located near each exit;

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

(d) The exit handles and the placards with the evacuation path operating instructions must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means for emergency illumination to be automatically provided for the LD–MCR compartment in the event of failure of the main power system of the airplane or of the normal lighting system of the LD–MCR compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems, if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the LD–MCR compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

(d) The illumination level must be sufficient to locate a deployed oxygen mask with the privacy curtains in the

closed position for each occupant of the LD–MCR compartment.

6. There must be means for two-way voice communications between crewmembers on the flight deck and crewmembers in the LD–MCR compartment. Section 25.785(h) at Amendment 25–51 requires flight attendant seats near required floor level emergency exits. Each such exit seat on the aircraft must have a public address system microphone that allows two-way voice communications between flight attendants and crewmembers in the LD–MCR compartment. One microphone may serve more than one such exit seat, provided the proximity of the exits allows unassisted verbal communications between seated flight attendants.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor-level emergency exits to alert crewmembers in the LD–MCR compartment of an emergency. Use of a public address or crew interphone system will be acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight for at least ten minutes after the shutdown or failure of all engines and auxiliary power units (APU) or the disconnection or failure of all power sources which are dependent on the continued operation of the engines and APUs.

8. There must be a means readily detectable by seated or standing occupants of the LD–MCR compartment which indicates when seat belts should be fastened. If there are no seats, at least one means, such as sufficient handholds, must be provided to cover anticipated turbulence. Seat belt-type restraints must be provided for berths and must be compatible with the sleeping attitude during cruise conditions. There must be a placard on each berth indicating that seat belts must be fastened when the berth is occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard specifying the head position.

9. To provide a level of safety equivalent to that provided to occupants of a small isolated galley—in lieu of the requirements of § 25.1439(a) at Amendment 25–38 that pertain to isolated compartments—the following equipment must be provided in the LD–MCR compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) Two Personal Breathing Equipment (PBE) units approved to Technical Standard Order (TSO)–C116 or equivalent, which are suitable for fire fighting, or one PBE for each hand-held fire extinguisher, whichever is greater; and

(c) One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations, beyond the minimum numbers prescribed in Special Condition No. 9, may be required as a result of any egress analysis accomplished to satisfy Special Condition No. 2(a).

10. A smoke or fire detection system or systems must be provided to monitor each occupiable area within the LD–MCR compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each smoke or fire detection system must provide the following:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the LD–MCR compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The LD–MCR compartment must be designed such that fires within it can be controlled without a crewmember having to enter the compartment or be designed such that crewmembers equipped for fire fighting have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, don the fire fighting equipment, and gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the source of the fire.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the LD–MCR compartment from entering any other compartment occupied by crewmembers or passengers. This means must include the time periods during the evacuation of the LD–MCR compartment and, if applicable, when accessing the LD–MCR compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers when the LD–MCR compartment is opened during an emergency evacuation must dissipate within five minutes after the LD–MCR compartment is closed.

Hazardous quantities of smoke may not enter any other compartment occupied by crewmembers or passengers during subsequent access to manually fight a fire in the LD–MCR compartment. (The amount of smoke entrained by a firefighter exiting the LD–MCR compartment through the access is not considered hazardous). During the one-minute smoke detection time, penetration of a small quantity of smoke from the LD–MCR compartment into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crewmembers. The system must have adequate capacity to suppress any fire occurring in the LD–MCR compartment, considering the fire threat, the volume of the compartment and the ventilation rate.

13. For each seat and berth in the LD–MCR compartment, there must be a supplemental oxygen system equivalent to that provided for main deck passengers. The system must provide an aural and visual warning to alert the occupants of the LD–MCR compartment of the need to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the LD–MCR compartment is depressed. Procedures for crewmembers in the LD–MCR compartment to follow in the event of decompression must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

14. The following requirements apply to LD–MCR compartments that are divided into several sections by the installation of curtains or doors:

(a) To warn crewmembers who may be sleeping, there must be an aural alert that accompanies automatic presentation of supplemental oxygen masks. The alert must be able to be heard in each section of the LD–MCR compartment. A visual indicator that occupants must don an oxygen mask is required in each section where seats or berths are not installed. A minimum of two supplemental oxygen masks are required for each seat or berth. There must also be a means to manually

deploy the oxygen masks from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates the LD–MCR compartment into small sections for privacy purposes. The placard must indicate that the curtain is to remain open when the private section it creates is unoccupied.

(c) For each section created by the installation of a curtain, the following requirements of these special conditions must be met both with the curtain open or the curtain closed:

(1) Emergency illumination (Special Condition No. 5);

(2) Aural emergency alarm (Special Condition No. 7);

(3) Fasten seat belt signal or return to seat signal as applicable (Special Condition No. 8); and

(4) Smoke or fire detection (Special Condition No. 10).

(d) Crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the LD–MCR compartment and must meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58. An exit sign with reduced background area, as described in Special Condition No. 4.(a), may be used to meet this requirement.

(e) For sections within a LD–MCR compartment that are created by the installation of a partition with a door separating the sections, the following requirements of these special conditions must be met with the door open and with the door closed:

(1) There must be a secondary evacuation route from each section to the main deck, or it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated crewmember from this area must be considered. A secondary evacuation route from a small room designed for only one occupant for a short period of time, such as a changing area or lavatory, is not required. However, removal of an incapacitated occupant from this area must be considered.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section which meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58 that direct occupants to the primary stairway exit. An exit sign with reduced background area, as described in Special Condition No. 4.(a), may be used to meet this requirement.

(5) Special Conditions No. 5 (emergency illumination), No. 7 (aural emergency alarm), No. 8 (fasten seat belt signal or return to seat signal as applicable) and No. 10 (smoke and fire detection) must be met both with the door open and the door closed.

(6) Special Conditions No. 6 (two-way voice communication) and No. 9 (PBE and other equipment) must be met independently for each separate section, except in lavatories or other small areas that are not intended to be occupied for extended periods of time.

15. Where a waste disposal receptacle is fitted, it must be equipped with a built-in fire extinguisher designed to discharge automatically upon occurrence of a fire in the receptacle.

16. Materials, including finishes or decorative surfaces applied to the materials, must comply with the flammability standards of § 25.853 at Amendment 25–66. Mattresses must comply with the flammability standards of § 25.853(b) and (c) at Amendment 25–66.

17. A lavatory within the LD–MCR compartment must meet the same requirements as a lavatory installed on the main deck, except with regard to Special Condition No. 10 for smoke detection.

18. When a LD–MCR compartment is installed or enclosed as a removable module in part of a cargo compartment or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following conditions apply:

(a) Any wall of the LD–MCR compartment—which forms part of the boundary of the reduced cargo compartment and is subject to direct flame impingement from a fire in the cargo compartment—and any interface item between the LD–MCR compartment and the airplane structure or systems must meet the applicable requirements of § 25.855 at Amendment 25–60.

(b) Means must be provided to ensure that the fire protection level of the cargo compartment meets the applicable requirements of §§ 25.855 at Amendment 25–60; 25.857 at Amendment 25–60; and 25.858 at Amendment 25–54 when the LD–MCR compartment is not installed.

(c) Use of each emergency evacuation route must not require occupants of the LD–MCR compartment to enter the cargo compartment in order to return to the passenger compartment.

(d) The aural emergency alarm specified in Special Condition No. 7 must sound in the LD–MCR compartment in the event of a fire in the cargo compartment.

19. Means must be provided to prevent access into the Class C cargo compartment during all airplane operations and to ensure that the maintenance door is closed during all airplane flight operations.

20. All enclosed stowage compartments within the LD–MCR compartment—that are not limited to stowage of emergency equipment or airplane supplied equipment (*i.e.*, bedding)—must meet the design criteria given in the table below. As indicated in the table, enclosed stowage compartments larger than 200 ft^3 in interior volume are not addressed by this Special Condition. The in-flight accessibility of very large enclosed stowage compartments and the subsequent impact on the crewmembers' ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

Interior volume of stowage compartment	Fire protection features		
	less than 25 ft^3	25 ft^3 to 57 ft^3	57 ft^3 to 200 ft^3
Materials of Construction[1]	Yes	Yes	Yes.
Smoke or Fire Detectors[2]	No	Yes	Yes.
Liner[3]	No	Conditional	Yes.
Location Detector[4]	No	Yes	Yes.

[1] *Material:* The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards for interior components specified in § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] *Detectors:* Enclosed stowage compartments with an interior volume which equals or exceeds 25 ft[3] must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:
(a) A visual indication in the flight deck within one minute after the start of a fire;
(b) An aural warning in the LD–MCR compartment; and
(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

[3] *Liner:* If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment, no liner would be required for enclosed stowage compartments equal to or greater than 25 ft[3] but less than 57 ft[3] in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft[3] but less than or equal to 200 ft[3] in interior volume, a liner must be provided that meets the requirements of § 25.855 at Amendment 25–60 for a class B cargo compartment.

[4] *Location Detector:* LD–MCR compartments which contain enclosed stowage compartments with an interior volume which exceeds 25 ft[3] and which are located away from one central location, such as the entry to the LD–MCR compartment or a common area within the LD–MCR compartment, would require additional fire protection features or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington, on August 26, 2004.

K.C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20170 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19001; Directorate Identifier 2004–NM–98–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposed AD would require an inspection of the elevator and aileron trim-tab fittings, and related investigative/corrective actions if necessary. This proposed AD is prompted by reports of improperly installed rivets in the retainers that hold the elevator trim-tab bearings. We are proposing this AD to prevent the elevator and aileron trim-tab bearings from coming loose, which could result in excessive play in the elevator and aileron trim systems, and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by October 4, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW, Nassif Building, room PL–401, Washington, DC 20590.
- *By fax:* (202) 493–2251.
- 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.

You can get the service information identified in this proposed AD from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW, room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

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

Plain language information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2004–19001; Directorate Identifier 2004–NM–98–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the Docket

You may examine the AD docket in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is in the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified us that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it has received reports from operators regarding improperly installed rivets in the retainers located in the elevator trim-tab fittings. The retainers hold the elevator trim-tab bearings. Improperly installed rivets, if not corrected, could result in loose elevator trim-tab bearings, which could result in excessive play in the elevator control system, severe oscillations, and reduced controllability of the airplane.

The aileron trim-tab system is similar in design to the elevator trim-tab system. The aileron trim-tabs may be subject to a similar unsafe condition. If the rivets that hold the retainers for the aileron trim-tab bearings are improperly installed, the aileron trim-tab bearing could become loose. This condition, if not corrected, could result in excessive play in the aileron control system, severe oscillations, and reduced controllability of the airplane. Because of the similar design, the LFV advises that both the elevator and aileron trim-tab fittings be inspected.

Relevant Service Information

Saab has issued Service Bulletin 340–51–025, Revision 01, dated October 21, 2003. The service bulletin describes procedures for visual inspections of the elevator and aileron trim-tab fittings to determine if riveted, greasable bearings are installed, and related investigative and corrective actions. The related investigative and corrective actions include:

- Inspecting for damage and acceptance limits (as specified in the Saab 340 Structural Repair Manual (SRM) 51–40–20, paragraph "Solid Rivet Inspection") the rivets and retainers that attach the elevator and aileron trim-tabs to the airplane structure.
- Replacing damaged rivets with new rivets and installing new bearings.
- Inspecting the elevator and aileron trim mechanical installations (*e.g.*, pushrods and levers) for damage (as specified in the SRM) and loose fasteners.
- Replacing damaged parts and tightening loose fasteners.
- Inspecting the axial play of the elevator trim-tab bearings.
- Inspecting the axial play of the aileron trim-tab bearings and the movement of the third hinge.
- Doing a backlash inspection after all of the necessary corrective actions have been done.
- Reporting to the manufacturer any major damage found to any retainer.
- Marking the lower right corner of each elevator and aileron trim-tab identification plate with three in-line punch marks.

We have determined that accomplishing the actions specified in the service information will adequately address the unsafe condition. The LFV mandated the service information and issued Swedish airworthiness directive 1–194, dated October 14, 2003, to ensure the continued airworthiness of these airplanes in Sweden.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. According to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. We have examined the LFV's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require inspections of the elevator and aileron trim-tab fittings, and related investigative/corrective actions if necessary. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under "Differences Between the Proposed AD and Service Information."

Differences Between the Proposed AD and Service Information

Although the Accomplishment Instructions of the referenced service bulletin describe procedures for reporting certain damage to the manufacturer, this proposed AD would not require that action.

The service bulletin specifies to do a "visual inspection" to determine if riveted greasable bearings are installed on the elevator and aileron trim-tab fittings. The service bulletin also specifies to do an "inspection" for damage to the rivets that attach the retainers to the elevator and aileron trim-tab fittings. This proposed AD would require "detailed inspections" for these actions. We have included the definition for a detailed inspection in a note in this proposed AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered hour airplanes	Fleet cost
Inspection	16	$65	None	$1,040	170	$176,800

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. 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 regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Saab Aircraft AB: Docket No. FAA–2004–19001; Directorate Identifier 2004–NM–98–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by October 4, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to certain Saab Model SAAB SF340A series airplanes, line numbers 004 through 159 inclusive; and SAAB 340B series airplanes, line numbers 160 through 459 inclusive; certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of improperly installed rivets in the retainers located in the elevator trim-tab fittings. The retainers hold the trim-tab bearings. We are issuing this AD to prevent the elevator and aileron trim-tab bearings from coming loose, which could result in excessive play in the elevator and aileron trim systems, and reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection and Related Investigative/ Corrective Actions

(f) Within 800 flight hours or 6 months after the effective date of this AD, whichever is first: Do a detailed inspection of the elevator and aileron trim-tab fittings, and all applicable related investigative and corrective actions, by accomplishing all of the actions in the Accomplishment Instructions of Saab Service Bulletin 340–51–025, Revision 01, dated October 21, 2003. Any related investigative and corrective actions must be done before further flight.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Parts Installation

(g) As of the effective date of this AD, no person may install on any airplane an elevator or aileron trim-tab fitting unless it has been inspected, and any applicable corrective actions have been done, in accordance with paragraph (f) of this AD.

Reporting Not Required

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

Alternative Methods of Compliance (AMOCs)

(i) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) Swedish airworthiness directive 1–194, dated October 14, 2003, also addresses the subject of this AD.

Issued in Renton, Washington, on August 25, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20121 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18998; Directorate Identifier 2003–NM–253–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, 737–300, 737–400, 737–500, 737–600, 737–700, 737–800, 737–900, 757–200, and 757–300 Series Airplanes; and McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain transport category airplanes. That AD currently requires modification of the reinforced flight deck door. This proposed AD would expand the applicability of the existing AD and require other actions related to the reinforced flight deck door. These other actions include modifying the door, inspecting and modifying wiring in the area, and revising the maintenance program to require more frequent testing of the decompression panels of the flight deck door. This proposed AD is prompted by reports of discrepancies with the reinforced flight deck door. We are proposing this AD to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door, or penetration of the flight deck door by smoke or shrapnel, any of which could result in injury to the airplane flightcrew. This proposed AD would also find and fix wire chafing, which could result in arcing, fire, and/or reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by October 18, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- 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.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; or C & D Aerospace, 5701 Bolsa Avenue, Huntington Beach, California 92647–2063.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood,

California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2004–18998; Directorate Identifier 2003–NM–253–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On July 2, 2003, we issued AD 2003–14–04, amendment 39–13223 (68 FR 41063, July 10, 2003), for certain Boeing Model 737–200, 737–300, 737–400, 737–500, 737–600, 737–700, 737–800, 737–900, 757–200, and 757–300 series airplanes; and McDonnell Douglas Model DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes. That AD requires modification of the reinforced flight deck door installed on the airplane. That AD was prompted by several reports of incidents involving the reinforced flight deck door on certain Boeing Model 737–300, 737–500, 737–800, and 757–200 series airplanes. We issued that AD to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door. If an airplane crewmember is in close proximity to the flight deck door when the decompression panel opens, the decompression panel could hit and injure the crewmember.

Actions Since Existing AD Was Issued

Since we issued AD 2003–14–04, we have made these determinations:

- Some subject airplanes may have been excluded from AD 2003–14–04's applicability. The requirements of that AD should apply to any airplane that has an affected reinforced flight deck door installed under certain supplemental type certificates (STC), not just those airplanes listed in the service bulletins that AD 2003–14–04 references.
- For Model DC–10, MD–11, and MD–11F series airplanes, the currently required modifications may not prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door. Installing new, improved latch straps on the upper and lower decompression panels on the flight deck door will better ensure that a decompression panel does not open inadvertently.
- Based on post-certification testing, other modifications are necessary to the reinforced flight deck door. These modifications are included in the service information we reference in AD 2003–14–04, but we did not previously require them (as explained in the "Differences Between This AD and the Service Bulletins" section of AD 2003–14–04). Installing an armor plate over the deadbolt area of the flight deck door will better protect the door edge and door lip extrusion against penetration by bullets. Although the door as certified meets the ballistics and intrusion resistance security requirements of Section 25.795 ("Security Considerations") of the Federal Aviation Regulations (14 CFR 25.795) (when the door is properly closed, latched, and locked), fragments caused by a bullet striking the door latch area could enter the flight deck and cause injury to a member of the flightcrew. Also, strengthening the smoke screens will allow the smoke screens to close properly and prevent smoke from entering the flight deck in the event of a fire in the airplane. Smoke in the flight deck could hinder the flightcrew's ability to continue to fly the airplane safely.
- For certain Model 737 and 757 series airplanes, the interval for the repetitive functional test of the decompression panels of the reinforced flight deck doors, as established in the original issue of the Certification Maintenance Requirements (CMR) document, is not conservative enough. More frequent inspections are needed to ensure that any failure is found in a timely manner.
- Certain wiring in the area of the flight deck door on Model 737–200 series airplanes could be damaged due to, for example, chafing against a connector bracket for the flight deck door wiring and the flight deck door post. This damage could result in arcing, fire, and/or reduced controllability of the airplane.

These determinations have prompted us to propose the new AD.

Relevant Service Information

We have reviewed these service bulletins:

- C & D Aerospace Report B22–69, Revision E, dated November 8, 2002, which applies to certain McDonnell Douglas Model 737 and 757 series airplanes. That report summarizes the CMRs for the reinforced flight deck doors installed on those airplanes. Revision E of that report reduces the repetitive interval for functional tests of the decompression panels of the flight deck door.

• C & D Aerospace Service Bulletin B211200–52–02, Revision 2, dated September 29, 2003, which applies to certain flight deck door assemblies installed on certain McDonnell Douglas Model DC–10, MD–10, and MD–11 airplanes. (AD 2003–14–04 refers to Revision 1 of that service bulletin, dated June 3, 2003, as the appropriate source of service information for installing spacers in the upper and lower pressure relief latch assemblies.) In addition to the procedures for installing spacers in the upper and lower pressure relief latch assemblies, that service bulletin describes procedures for installing an armor plate in the area of the deadbolt for ballistics reinforcement, and installing stiffeners to strengthen the smoke screen on the decompression panels.

• C & D Aerospace Service Bulletin B211200–52–01, Revision 3, dated September 18, 2003, which applies to certain flight deck door assemblies installed on certain McDonnell Douglas Models DC–10, MD–11, and MD–11F airplanes. That service bulletin describes procedures for modifying the upper and lower pressure relief latch assemblies by installing new latch straps.

• C & D Aerospace Alert Service Bulletin B221001–52A02, dated November 5, 2002, which applies to certain flight deck door assemblies installed on certain Boeing Model 737–200 series airplanes. That service bulletin describes procedures for inspecting for chafing of wire bundles in the area of the flight deck door, and corrective actions if necessary. The corrective actions involve rerouting certain wiring or reorienting certain brackets, as applicable.

• C & D Aerospace Alert Service Bulletin B221001–52A05, Revision 2, dated June 19, 2003, which applies to certain flight deck door assemblies installed on certain Boeing Model 737–200 series airplanes. That service bulletin describes procedures for reworking certain wiring for the flight deck door to relocate a power wire for the flight deck door.

• C & D Aerospace Service Bulletin B221200–52–01, Revision 1, dated June 27, 2003, which applies to certain flight deck door assemblies installed on certain Boeing Model 737 and 757 series airplanes. That service bulletin describes procedures for installing an armor plate in the area of the flight deck door deadbolt for ballistics reinforcement.

• C & D Aerospace Alert Service Bulletin B251200–52–01, dated April 30, 2003, which applies to certain flight deck door assemblies installed on certain Model MD–11 airplanes. That service bulletin describes procedures for modifying the flight deck door by installing stiffeners to strengthen the smoke screen on the flight deck door's decompression panels.

Doing the actions specified in the applicable service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

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. Therefore, we are proposing this AD, which would supersede AD 2003–14–04. This proposed AD would continue to require modification of the reinforced flight deck door. This proposed AD would expand the applicability of the existing AD to include all airplanes modified under certain STCs. This proposed AD would require you to do the actions in the applicable service information described previously, using that same service information, except as discussed under "Differences Between the Proposed AD and Service Information." This proposed AD would also require you to revise the airplane's maintenance program to require repetitive functional testing of the decompression panels of the flight deck door at the intervals specified in C & D Aerospace Report B22–69, Revision E.

Differences Between the Proposed AD and Service Information

Although the service bulletins recommend accomplishing the modification "as soon as manpower, facilities, and retrofit kits become available," or "as soon as possible," we have determined that a more specific compliance time is necessary to ensure an adequate level of safety for the affected fleet. In developing an appropriate compliance time for this AD, we considered the flight deck door manufacturer's recommendation, the degree of urgency associated with the subject unsafe conditions, the number of affected airplanes in the fleet, and the time necessary to perform the modifications. In light of all of these factors, we find that 6 months to 18 months, depending on the action, represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

C & D Aerospace Alert Service Bulletin B221001–52A02 specifies inspecting for chafing of wire bundles in the area of the flight deck door, but does not specify the type of inspection. Paragraph (l)(2) of this proposed AD identifies this inspection as a general visual inspection, and Note 2 of this proposed AD defines this inspection.

Table 3 of this proposed AD specifies that the actions in C & D Aerospace Service Bulletin B211200–52–01 must be done on McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes that are equipped with a flight deck door assembly having part number B211200. Though the effectivity listing of C & D Aerospace Service Bulletin B211200–52–01 does not identify all of these models, we find that the subject flight deck door assembly is type certificated for all of these models. Thus, listing all affected models will ensure that the applicable actions are done on all affected airplanes.

Changes to Existing AD

This proposed AD would retain all requirements of AD 2003–14–04. Since AD 2003–14–04 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2003–14–04	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).

Also, we have revised paragraph (f)(3) of this proposed AD (which was paragraph (a)(3) of the existing AD) to remove the last sentence of the paragraph. We have determined that this sentence does not apply to the airplanes listed in paragraph (f)(3).

Costs of Compliance

This proposed AD would affect about 3,423 airplanes worldwide.

The following table provides the estimated costs for U.S. operators to comply with the currently required actions that this proposed AD would continue to require, at an average labor rate of $65 per work hour.

ESTIMATED COSTS: EXISTING REQUIREMENTS OF AD 2003–14–04

Airplane models	As Listed in C & D Aerospace Service Bulletin—	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
737	B221001–52–03, Revision 3	1	$0	$65	1,040	$67,600
757	B231001–52–02, Revision 4	2	0	130	519	67,470
DC–10, MD–10, MD–11	B211200–52–02, Revision 1	2	0	130	21	2,730

The following table provides the estimated costs for U.S. operators to comply with the new actions that would be required by this proposed AD, at an average labor rate of $65 per work hour.

ESTIMATED COSTS: NEW PROPOSED REQUIREMENTS

Airplane models	Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
737	Modification in C & D Aerospace Service Bulletin B221001–52–03, Revision 3.	1	$0	$65	Unknown: airplanes not modified under AD 2003–14–04.	N/A
737, 757	Revision of maintenance program.	1	None	65	651	$42,315
737, 757	Modification in C & D Aerospace Service Bulletin B221200–52–01, Revision 1.	1	0	65	1,673	108,745
737–200	Modification in C & D Aerospace Alert Service Bulletin B221001–52A05, Revision 2.	1	None	65	134	8,710
737–200	Inspection in C & D Aerospace Alert Service Bulletin B221001–52A02.	2	None	130	134	17,420
757	Modification in C & D Aerospace Service Bulletin B231001–52–02, Revision 4.	2	0	130	Unknown: airplanes not modified under AD 2003–14–04.	N/A
DC–10, MD–11, MD–11F	Modification in C & D Aerospace Service Bulletin B211200–52–01, Revision 3.	1	0	65	155	10,075
DC–10, MD–10, MD–11	Modification in C & D Aerospace Service Bulletin B211200–52–02.	2	0	130	Unknown: airplanes not modified under AD 2003–14–04.	N/A
MD–11	Modification in C & D Aerospace Alert Service Bulletin B251200–52–01.	1	0	65	6	390

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

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

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

3. 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 regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 removing amendment 39–13223 (68 FR 41063, July 10, 2003) and adding the following new airworthiness directive (AD):

Transport Category Airplanes: Docket No. FAA–2004–18998; Directorate Identifier 2003–NM–253–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this airworthiness directive (AD) action by October 18, 2004.

Affected ADs

(b) This AD supersedes AD 2003–14–04, amendment 39–13223.

Applicability

(c) This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category.

TABLE 1.—AFFECTED AIRPLANE MODELS

Airplane manufacturer	Airplane model	Modified by Supplemental Type Certificate (STC)
Boeing	737–200, –300, –400, –500, –600, –700, –800, and –900 series	ST01335LA
Boeing	757–200 and –300 series	ST9514LA–T
McDonnell Douglas	DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F.	ST01391LA

Unsafe Condition

(d) This AD was prompted by reports of discrepancies with the reinforced flight deck door. We are issuing this AD to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door, or penetration of the flight deck door by smoke or shrapnel, any of which could result in injury to the airplane flightcrew. We are also issuing this AD to find and fix wire chafing, which could result in arcing, fire, and/or reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Requirements of AD 2003–14–04

Note 1: Where there are differences between this AD and the referenced service bulletins, this AD prevails.

Modification

(f) For airplanes listed in Table 2 of this AD: Within 90 days after July 25, 2003 (the effective date of AD 2003–14–04, amendment 39–13223), modify the reinforced flight deck door according to paragraph (f)(1), (f)(2), or (f)(3) of this AD, as applicable.

TABLE 2.—AIRPLANE MODELS SUBJECT TO REQUIREMENTS OF AD 2003–14–04

Airplane manufacturer	Airplane model	As listed in C&D Aerospace Service Bulletin—
Boeing	737–200, –300, –400, –500, –600, –700, –800, and –900 series.	B221001–52–03, Revision 3, dated March 25, 2003.
Boeing	757–200 and –300 series	B231001–52–02, Revision 4, dated March 19, 2003.
McDonnell Douglas	DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F.	B211200–52–02, Revision 1, dated June 3, 2003.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(2) For Boeing Model 757–200 and –300 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C & D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: Install spacers in the upper and lower pressure relief latch assemblies of the flight deck door, by doing all actions specified in and according to paragraphs 3.A., 3.C., and 3.D. of C & D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003; or Revision 2, dated September 29, 2003.

Modifications Accomplished Per Previous Issues of Service Bulletin

(g) For airplanes listed in Table 2 of this AD: Modifications accomplished before July 25, 2003, per a service bulletin listed in paragraph (g)(1), (g)(2), or (g)(3) of this AD; as applicable; are considered acceptable for compliance with the corresponding action specified in paragraph (f) of this AD.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: C & D Aerospace Service Bulletin B221001–52–03, dated December 6, 2002; Revision 1, dated January 2, 2003; or Revision 2, dated February 20, 2003.

(2) For Boeing Model 757–200 and –300 series airplanes: C & D Aerospace Service Bulletin B231001–52–02, dated December 6, 2002; Revision 1, dated January 2, 2003; Revision 2, dated February 20, 2003; or Revision 3, dated March 7, 2003.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: C & D Aerospace Service Bulletin B211200–52–02, dated April 30, 2003.

Parts Installation

(h) As of July 25, 2003, no person may install, on any airplane, a reinforced flight deck door having any part number listed in the paragraph 1.A. of C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; B231001–52–02, Revision 4, dated March 19, 2003; or B211200–52–02, Revision 1, dated June 3, 2003; as applicable; unless the door has been modified as required by paragraph (f) of this AD.

New Requirements of This AD

Model 737 and 757 Series Airplanes: Revise Maintenance Program

(i) For Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and Model 757–200 and –300 series airplanes: Within 6 months after the effective date of this AD, revise the FAA-approved maintenance inspection program to include the information specified in C & D Report

CDR B22–69, Revision E, dated November 8, 2002.

Modifications to Flight Deck Door

(j) Modify the reinforced flight deck door by doing all applicable actions specified in the applicable service bulletin listed in Table 3 of this AD at the applicable compliance time specified in that table.

TABLE 3.—NEW MODIFICATIONS TO THE FLIGHT DECK DOOR

For these models—	Equipped with a flight deck door assembly having this P/N—	Within this compliance time after the effective date of this AD—	Do all actions in the accomplishment instructions of—
McDonnell Douglas DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes.	B211200	6 months	C & D Aerospace Service Bulletin B211200–52–01, Revision 3, dated September 18, 2003.
McDonnell Douglas Model MD–11 and MD–11F airplanes.	B251200	6 months	C & D Aerospace Alert Service Bulletin B251200–52–01, dated April 30, 2003.
Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and Model 757–200 and –300.	B221200	18 months	C & D Aerospace Service Bulletin B221200–52–01, Revision 1, dated June 27, 2003.
Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes.	B221001	18 months	C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; except as provided by paragraph (k) of this AD.
Boeing Model 757–200 and –300 series airplanes ...	B231001	18 months	C & D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003; except as provided by paragraph (k) of this AD.
McDonnell Douglas DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes.	B211200	18 months	C & D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003; or Revision 2, dated September 29, 2003, except as provided by paragraph (k) of this AD.

(k) For airplanes subject to paragraph (f) of this AD: Actions required by paragraph (f) of this AD that were done within the compliance time specified in paragraph (f) of this AD do not need to be repeated in accordance with paragraph (j) of this AD.

Model 737–200 Series Airplanes: Wiring Modification/Inspection

(l) For Model 737–200 series airplanes equipped with flight deck door assembly P/N B221001: Within 18 months after the effective date of this AD, do paragraphs (l)(1) and (l)(2) of this AD.

(1) Rework the wiring for the flight deck door to relocate a power wire for the flight deck door, in accordance with the Accomplishment Instructions of C & D Aerospace Alert Service Bulletin B221001–52A05, Revision 2, dated June 19, 2003.

(2) Perform a general visual inspection for chafing of wire bundles in the area of the flight deck door and applicable corrective actions by doing all of the actions in the Accomplishment Instructions of C & D Aerospace Alert Service Bulletin B221001–52A02, dated November 5, 2002. Any applicable corrective actions must be done before further flight.

Note 2: For the purposes of this AD, a general visual inspection is "a visual examination of a interior or exterior area, installation or assembly to detect obvious damage, failure or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light and may require removal or opening of access panels or doors. Stands, ladders or platforms may be required to gain proximity to the area being checked."

Parts Installation

(m) As of the effective date of this AD, no person may install a reinforced flight deck door under any STC listed in Table 1 of this AD, on any airplane, unless all applicable requirements of this AD have been done on the door.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Alternative methods of compliance, approved previously per AD 2003–14–04, amendment 39–13223, are approved as alternative methods of compliance with this AD.

Issued in Renton, Washington, on August 25, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20122 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18994; Directorate Identifier 2003–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–14 and DC–9–15 Airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model DC–9–14 and DC–9–15 airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. This proposed AD would require repetitive high frequency eddy current inspections to detect cracks in the vertical radius of the upper cap of the center wing rear spar, and repair if necessary. This proposed AD is prompted by reports of cracks in the upper cap of the center wing rear spar that resulted from stress corrosion. We are proposing this AD to detect and correct cracking of the left or right upper cap of the center rear spar, which could cause a possible fuel leak and structural failure of the upper cap, and result in

reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by October 18, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- 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.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

Plain Language Information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2004–18994; Directorate Identifier 2003–NM–210–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the Docket

You can examine the AD docket on the Internet at http://dms.dot.gov, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received several reports of cracking of the upper cap of the center wing rear spar at station Xcw=58.500 on certain McDonnell Douglas Model DC–9 airplanes. These airplanes had accumulated 20,100 to 76,183 total flight hours, and 25,150 to 88,029 total flight cycles. Investigation revealed that the cracks resulted from stress corrosion. This cracking of the left or right upper cap of the center wing rear spar, if not detected and corrected in a timely manner, could cause a possible fuel leak and structural failure of the upper cap, and result in reduced structural integrity of the airplane.

Relevant Service Information

We have reviewed McDonnell Douglas Service Bulletin DC9–57–223, dated July 21, 2003. The service bulletin describes procedures for doing repetitive high frequency eddy current inspections of the left and right upper caps of the center wing rear spar at station Xcw=58.500, and contacting Boeing for repair instructions if any crack is found during the inspections. Accomplishing the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require high frequency eddy current inspections, and corrective actions if necessary, in accordance with the FAA. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under "Difference Between the Proposed AD and the Service Bulletin."

Difference Between the Proposed AD and the Service Bulletin

Although the service bulletin specifies that operators may contact the manufacturer for disposition of repair conditions, this proposed AD would require operators to repair those conditions per a method approved by the FAA.

Costs of Compliance

This proposed AD would affect about 396 airplanes of U.S. registry and 963 airplanes worldwide. The proposed inspection would take about 3 work hours per airplane, per inspection cycle, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $77,220, or $195 per airplane, per inspection cycle.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

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

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

3. 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 regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

McDonnell Douglas: Docket No. FAA–2004–18994; Directorate Identifier 2003–NM–210–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 18, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to certain McDonnell Douglas Model DC–9–14, DC–9–15, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, DC–9–32F (C–9A, C–9B), DC–9–41, and DC–9–51 airplanes, certificated in any category; as listed in McDonnell Douglas Service Bulletin DC9–57–223, dated July 21, 2003.

Unsafe Condition

(d) This AD was prompted by reports of cracks in the upper cap of the center wing rear spar that resulted from stress corrosion. We are issuing this AD to detect and correct cracking of the left or right upper cap of the center rear spar, which could cause a possible fuel leak and structural failure of the upper cap, and result in reduced structural integrity of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection

(f) At the later of the times specified in paragraph (f)(1) or (f)(2) of this AD: Do a high frequency eddy current inspection to detect cracks in the vertical radius of the upper cap of the center wing rear spar, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–57–223, dated July 21, 2003.

(1) Before the accumulation of 25,000 total flight cycles.

(2) Within 15,000 flight cycles or 5 years after the effective date of this AD, whichever occurs first.

Corrective Action

(g)(1) If no crack is found, then repeat the inspection thereafter at intervals not to exceed 15,000 flight cycles or 5 years, whichever occurs first.

(2) If any crack is found, before further flight, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, Los Angeles ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on August 20, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20123 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18996; Directorate Identifier 2004–NM–40–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–700 and –800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–700 and –800 series airplanes. This proposed AD would require doing an initial inspection for pitting and cracks of the lower skin panel at the lap joint; trimming the inner skin; installing exterior doublers; replacing the fuselage skin assembly; doing repetitive supplemental inspections; and repairing if necessary; as applicable. This proposed AD is prompted by a report indicating that localized pitting in the lower skin panels was found during production on a limited number of airplanes. We are proposing this AD to detect and correct premature fatigue cracking at certain lap splice locations and consequent rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by October 18, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- 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.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://*

dms.dot.gov, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2004–18996; Directorate Identifier 2004–NM–40–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received a report indicating that localized pitting in the lower skin panels was found during production on a limited number of Boeing Model 737–700 and –800 series airplanes. The pitting was caused by chemical milling solution leaking through sealer at a maskant line. The leakage caused local pits to form on the surface of the skin. Testing and analysis revealed that the chemical mill pitting does not reduce the ultimate strength of the effected skin panels, but chemical mill pitting greater than the allowable limit may reduce the fatigue performance and damage tolerance capability of the lower skin panels. This condition, if not corrected, could result in premature fatigue cracking at certain lap splice locations and consequent rapid decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–53–1256, dated September 18, 2003, which describes the following procedures depending on the airplane configuration:

- Doing an initial external ultrasonic inspection for pitting and cracks of the lower skin panel at the lap joint;
- Trimming the inner skin and installing two exterior doublers (including an internal high frequency eddy current inspection of the edge of the trim for cracks) or installing three exterior doublers, as applicable;
- Replacing the fuselage skin assembly with a new assembly;
- Doing supplemental repetitive inspections; and
- Contacting Boeing for repair of discrepancies.

The service bulletin recommends compliance times at the following approximate intervals, depending on the lap splice location:

TABLE—SERVICE BULLETIN RECOMMENDED COMPLIANCE TIMES

Action	Recommended compliance time
Initial inspection	Ranging from 28,000 to 75,000 total flight cycles.
Initial supplemental inspection	56,000 flight cycles after repair incorporation.
Repetitive supplemental inspections	Ranging from 5,000 to 7,500 flight cycles.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require you to use the service information described previously to perform the required actions, except as discussed under "Difference Between the Proposed AD and Service Bulletin."

Difference Between the Proposed AD and Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the type certification basis of the airplane, and

that have been approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make those findings.

Costs of Compliance

This proposed AD would affect about 4 airplanes worldwide and 2 airplanes of U.S. registry. The following table provides the estimated costs to comply with this proposed AD.

The average labor rate is $65 per work hour. The cost impact of the proposed AD on U.S. operators is estimated to be $83,855.

TABLE—COST IMPACT

For airplanes listed in the referenced service bulletin as group—	Work hours	Parts cost	Per airplane cost
1	Inspection: 2	None	$130
	Modification: 38	$105	2,575
2	Inspection: 2	None	130
	Modification: 30	104	2,054
3	Inspection: 2	None	130
	Modification: 42	106	2,836
4	Repair: 920	16,200	76,000

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

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

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

3. 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 regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Boeing: Docket No. FAA–2004–18996; Directorate Identifier 2004–NM–40–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 18, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–700 and –800 series airplanes, certificated in any category; having variable and serial numbers listed in Table 1 of this AD.

TABLE 1.—APPLICABLE VARIABLE AND SERIAL NUMBERS

Variable No.—	Serial No.—	Group—
YA004	27837	1
YA005	27836	2
YA201	28004	4
YC003	27977	3

Unsafe Condition

(d) This AD was prompted by a report indicating that localized pitting in the lower skin panels was found during production on a limited number of airplanes. We are issuing this AD to detect and correct premature fatigue cracking at certain lap splice locations and consequent rapid decompression of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Initial Inspection and/or Repair

(f) At the applicable times specified in Table 1 of paragraph 1.E., "Compliance" of Boeing Service Bulletin 737–53–1256, dated September 18, 2003, do the applicable actions specified in Table 2 of this AD in accordance with the Accomplishment Instructions of the service bulletin.

TABLE 2.—INITIAL INSPECTION AND/OR REPAIR

For airplanes identified in the service bulletin as—	Requirements—
(1) Groups 1, 2, and 3	Do an external ultrasonic inspection for pitting and cracks of the lower skin panel at the lap joint.
(2) Groups 1 and 2	Trim the inner skin and install two exterior doublers (including related investigative actions).

TABLE 2.—INITIAL INSPECTION AND/OR REPAIR—Continued

For airplanes identified in the service bulletin as—	Requirements—
(3) Group 3	Install three exterior doublers.
(4) Group 4	Replace the fuselage skin assembly with a new assembly.

Repetitive Inspections

(g) For Groups 1, 2, and 3 airplanes identified in Boeing Service Bulletin 737–53–1256, dated September 18, 2003: At the applicable times specified in Table 2 of paragraph 1.E., "Compliance" of the service bulletin, do the repetitive supplemental inspections of the lower skins and external doublers for discrepancies in accordance with the Accomplishment Instructions of the service bulletin.

Corrective Action

(h) If any discrepancy is found during any action required by this AD, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically refer to this AD.

Issued in Renton, Washington, on August 20, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20124 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18997; Directorate Identifier 2004–NM–19–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD would require repetitive detailed and eddy current inspections to detect cracking of the frame web around the cutout for the doorstop intercostal strap at the aft side of the Body station 291.5 frame at stringer 16R, and corrective actions if necessary. This proposed AD is prompted by reports of fatigue cracks in the web of the Body station 291.5 frame near the forward galley door. We are proposing this AD to detect and correct fatigue cracking of the aft frame and frame support structure of the forward galley door, which could result in a severed fuselage frame web, rapid decompression of the airplane, and possible loss of the forward galley door.

DATES: We must receive comments on this proposed AD by October 18, 2004.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- 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.

For service information identified in this proposed AD, contact Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6430; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA–2004–99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004–NM–999–AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES1**. Include "Docket No. FAA–2004–18997; Directorate Identifier 2004–NM–19–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also

post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received reports of fatigue cracks in the web of the Body station 291.5 frame near the forward galley door of a Model 737–200 series airplane. The cracks initiate at the frame web cutout for the stringer 16R doorstop intercostal strap. Fatigue cracking of the aft frame and frame support structure of the forward galley door, if not detected and corrected, could result in a severed fuselage frame web, rapid decompression of the airplane, and possible loss of the forward galley door.

The subject area on certain Boeing Model 737–100, –200C, –300, –400, and –500 series airplanes is similar to that on the affected Model 737–200 series airplanes. Therefore, those airplanes may be subject to the unsafe condition revealed on the Model 737–200 series airplanes.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–53A1241, dated June 13, 2002. The alert service bulletin describes procedures for performing repetitive detailed and eddy current inspections to detect cracking of the frame web around the cutout for the doorstop intercostal strap at the aft side of the Body station 291.5 frame at stringer 16R, and corrective action if necessary. The alert service bulletin also specifies to contact Boeing for repair instructions if any crack is found. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require repetitive detailed and eddy current inspections to detect cracking of the frame web around the cutout for the doorstop intercostal strap at the aft side of the Body station 291.5 frame at stringer 16R, and corrective action if necessary. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under "Differences Between the Proposed AD and Service Bulletin."

Differences Between the Proposed AD and Service Bulletin

The alert service bulletin states that the threshold for the inspections is 50,000 total flight cycles or 2,250 flight cycles after the release date of the service bulletin, whichever is later. This proposed AD would require a threshold of 40,000 total flight cycles or 2,250 flight cycles after the effective date of the AD, whichever is later. The threshold for the proposed AD is based upon service history reported after the release of the service bulletin. The manufacturer intends to issue a revised service bulletin that includes a threshold of 40,000 total flight cycles.

Although the alert service bulletin specifies that operators may contact the manufacturer for disposition of certain cracking conditions, this proposed AD would require operators to repair those conditions per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Costs of Compliance

This proposed AD would affect about 3,113 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle.	2	$65	None	$130, per inspection cycle.	876	$113,880, per inspection cycle.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

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

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

3. 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 regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Boeing: Docket No. FAA–2004–18997; Directorate Identifier 2004–NM–19–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 18, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, as listed in Boeing Alert Service Bulletin 737–53A1241, dated June 13, 2002; certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of fatigue cracks in the web of the Body station 291.5 frame near the forward galley door. We are issuing this AD to detect and correct fatigue cracking of the aft frame and frame support structure of the forward galley door, which could result in a severed fuselage frame web, rapid decompression of the airplane, and possible loss of the forward galley door.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Initial and Repetitive Inspections

(f) Prior to the accumulation of 40,000 total flight cycles, or within 2,250 flight cycles after the effective date of this AD, whichever occurs later: Do a detailed inspection and an eddy current inspection to detect cracking of the frame web around the cutout for the doorstop intercostal strap at the aft side of the Body station 291.5 frame at stringer 16R, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1241, dated June 13, 2002. If no cracking is found, repeat the inspections thereafter at intervals not to exceed 4,500 flight cycles.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Corrective Action

(g) If any crack is found during any inspection required by this AD: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on August 20, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20125 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18734; Airspace Docket No. 03–AAL–03]

RIN 2120–AA66

Proposed Revision of Colored Federal Airway; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Colored Federal Airway Green 16 (G–16), in Alaska. This action would add to the instrument flight rules (IFR) airway and route structure in Alaska by extending G–16 from Put River, AK, to Barter Island, AK. The FAA is taking this action to enhance safety and management of aircraft operations in Alaska.

DATES: Comments must be received on or before October 18, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2004–18734 and Airspace Docket No. 03–AAL–03, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2004–18734 and Airspace Docket No. 03–AAL–03) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–18734 and Airspace Docket No. 03–AAL–03." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web

page at *http://www.faa.gov*, or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, 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. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, #14, Anchorage, AK 99533.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

Presently there is an uncharted non-regulatory part 95 route that uses the same routing as the proposed colored Federal airway. The uncharted non-regulatory route is used daily by commercial and general aviation aircraft. However, the air traffic control (ATC) management of aircraft operations is limited on this route. The FAA is proposing to convert this uncharted non-regulatory route to a colored Federal airway. This action would add to the IFR airway and route structure in Alaska. The route conversion would provide an airway structure to support existing commercial services in Alaska.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (CFR) part 71 (part 71) to extend G–16 from the Put River, NDB, to the Barter Island, NDB in Alaska. This action would add to the IFR airway and route structure in Alaska. The FAA is taking this action to enhance the safety and management of aircraft operations in Alaska.

Adoption of this Federal airway would: (1) Provide pilots with minimum en route altitudes and minimum obstruction clearance altitudes information; (2) establish controlled airspace thus eliminating some of the commercial IFR operations in uncontrolled airspace; and (3) improve the management of air traffic operations and thereby enhance safety.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6009(a)—Green Federal Airways

* * * * *

G–16 [Revised]

From Point Lay, AK, NDB; Wainwright Village, AK, NDB; Browerville, AK, NDB; Nuiqsut Village, AK, NDB; Put River, AK, NDB; to Barter Island, AK, NDB.

* * * * *

Issued in Washington, DC, on August 27, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 04–20175 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15529; Airspace Docket No. 03–ANM–03]

RIN 2120–AA66

Proposed Establishment of VOR Federal Airway 584; MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice proposing to establish Federal Airway 584 (V–584) between the Helena, MT, Very High Frequency Omnidirectional Radio Range and Tactical Air Navigation Aid (VORTAC), and the Missoula, MT, VORTAC (68 FR 51737, August 28, 2003). With the decommissioning of the Drummond Very High Frequency Omnidirectional Range (VOR) in January 2004 there is no longer a requirement for the proposed V–584. Several airways in the state of Montana will be revised in a subsequent NPRM.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On August 28, 2003, a notice was published in the **Federal Register** proposing to amend 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to establish V–584 between the Helena, MT, VORTAC, and the Missoula, MT, VORTAC. With the decommissioning of the Drummond VOR in January 2004 there is no longer a requirement for the proposed V–584. Several airways in the state of Montana will be revised in a subsequent NPRM.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

In consideration of the foregoing, the Notice of Proposed Rulemaking, FAA Docket No. FAA–2003–15529/Airspace Docket No. 03-ANM–03, as published in the **Federal Register** on August 28, 2003 (68 FR 51737), is hereby withdrawn.

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

Issued in Washington, DC, on August 27, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

[FR Doc. 04–20171 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[REG–145988–03]

RIN 1545–BC60

Predeceased Parent Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the predeceased parent rule, which provides an exception to the general rules of section 2651 of the Internal Revenue Code (Code) for determining the generation assignment of a transferee of property for generation-skipping transfer (GST) tax purposes. These proposed regulations also provide rules regarding a transferee assigned to more than one generation. The proposed regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 and generally apply to individuals, trusts, and estates. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 2, 2004. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 14, 2004, at 10 a.m., must be received by November 23, 2004.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–145988–03), room 5203, Internal Revenue Service, P.O.B. 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–145988–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at: *http://www.irs.gov/regs* or via the Federal eRulemaking portal at *http://www.regulations.gov* (IRS and REG–145988–03). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Lian A. Mito at (202) 622–7830; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Guy R. Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations under sections 2651(e) and (f)(1) of the Internal Revenue Code (Code). Section 2651(e) was added to the Code by section 511(a) of the Taxpayer Relief Act of 1997 (Public Law 105–34; 111 Stat. 778; 1997–4 C.B. 1, vol. 1) (the 1997 Act) and expands the predeceased parent exception from GST tax previously contained in former section 2612(c)(2).

Under chapter 13 of the Code, a GST tax is imposed on all transfers, whether made directly or indirectly, to skip persons. Generally, a skip person is a person who is two or more generations below the generation of the transferor, or a trust if all of the interests are held by skip persons. The transferor is the individual who transferred property in a transaction subject to the gift or estate tax. Transfers that are subject to the GST tax are direct skips, taxable terminations, and taxable distributions. A direct skip is a transfer subject to gift or estate tax of an interest in property to a skip person. A taxable termination is the termination by death, lapse of time, release of power, or otherwise, of an interest in property held in a trust unless, immediately after the termination, a non-skip person has an interest in the property or at no time after the termination may a distribution be made from the trust to a skip person. A taxable distribution is any distribution (other than a direct skip or taxable termination) from a trust to a skip person.

For transfers before 1998, former section 2612(c)(2) provided an exception to the general rule that a transfer, either outright or in trust, to a grandchild of the transferor was a direct skip. Under former section 2612(c)(2), if a parent of the transferor's grandchild was a lineal descendant of the transferor and that parent was deceased at the time of the transfer, the grandchild was treated as the child of the transferor for purposes of determining whether a transfer was a direct skip. This rule also applied to a transfer made to a grandchild of the transferor's spouse or former spouse if a parent of the grandchild was a lineal descendant of the transferor's spouse or former spouse and that parent was deceased at the time of the transfer.

Former section 2612(c)(2) further provided that, if a transferor's grandchild was treated as the transferor's child, the lineal descendants of that grandchild also moved up one generation level. Furthermore, if any transfer of property to a trust would be a direct skip but for the application of the exception, any generation assignment determined under this exception also applied for purposes of applying chapter 13 of the Code to transfers from the portion of the trust attributable to the property. Therefore, a subsequent distribution of property from a trust to a grandchild treated as a child of the transferor was not treated as a taxable distribution.

Section 511(a) of the 1997 Act repealed former section 2612(c)(2) and replaced it with new subsection (e) of section 2651, which contains the rules for assigning individuals to generations for purposes of the GST tax. Section 2651(e) broadens the predeceased parent rule by expanding its application to: (1) Transfers that would be taxable distributions or taxable terminations; and (2) transfers to collateral heirs (lineal descendants of the transferor's parents, or the parents of the transferor's spouse or former spouse), provided that the transferor (or the transferor's spouse or former spouse) has no living lineal descendants at the time of the transfer. Section 2651(e) applies to terminations, distributions, and transfers occurring after December 31, 1997.

Section 2651(e) applies if an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse) and if the individual's parent, who also is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse), died prior to the time the transferor is subject to estate or gift tax on the transfer from which an interest of that individual is established or derived. If these criteria are satisfied, then the individual is treated under section 2651(e) as if the individual is a member of the generation that is one generation below the lower of either the transferor's generation or the generation of the individual's youngest living lineal ancestor who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse). Section 2651(e) does not apply, however, to a transfer to an individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, the transferor (or the transferor's spouse or former spouse, if

applicable) has any living lineal descendant.

Explanation of Provisions

Predeceased Parent Rule

The proposed regulations provide rules and examples regarding the predeceased parent rule of section 2651(e). One issue addressed in these proposed regulations is the time when an interest is established or derived. The proposed regulations provide that, for purposes of section 2651(e), an individual's interest in property or a trust is established or derived at the time the transferor is subject to transfer tax under chapter 11 or 12 of the Code. If a transferor is subject to transfer tax under chapter 11 or 12 of the Code on the property transferred on more than one occasion, then the individual's interest will be considered established or derived on the earliest of those occasions.

However, the proposed regulations provide an exception to this general rule for remainder interests in trusts for which an election under section 2056(b)(7) (QTIP election) has been made to treat all or part of the trust as qualified terminable interest property (QTIP). Specifically, to the extent of the QTIP election, the remainder beneficiary's interest will be deemed to have been established or derived on the death of the transferor's spouse (the income beneficiary), rather than on the transferor's earlier death. Absent this exception, a remainder beneficiary of a QTIP trust would not benefit from the predeceased parent rule if the remainder beneficiary's parent is alive when the QTIP trust is established, but is deceased when the income beneficiary's interest terminates. Without this exception, the rule under section 2651(e) would be more restrictive than the previous rule under former section 2612(c)(2) which, by referring to the transfer from the transferor (*i.e.*, the surviving spouse, in the case of a QTIP trust), would have made the predeceased parent rule available to the remainder beneficiary. The rule under section 2651(e), however, does not apply to any trust for which the election under section 2652(a)(3) (reverse QTIP) is made. If a reverse QTIP election is made, the grantor remains the transferor of the trust for purposes of chapter 13 of the Code. In most cases in which the reverse QTIP election has been made for a trust, the transferor's GST exemption has been allocated to the trust. Thus, the trust will be exempt from GST tax.

Solely for purposes of section 2651(e), these proposed regulations limit the term *ancestor* to a lineal ancestor. No inference should be drawn with respect to the definition of *ancestor* for purposes of any other section of the Code.

Individuals Assigned to More Than One Generation

Under section 2651(f)(1), an individual who would be assigned to more than one generation is assigned to the youngest of those generations. This rule prevents the avoidance of the GST tax through adoption or marriage. Thus, for example, a transferor cannot avoid GST tax by adopting the transferor's adult grandchild. The Treasury Department and IRS believe, however, that it is reasonable to presume that tax avoidance is not a primary motive when a transferor adopts a descendant of a parent of the transferor (or the transferor's spouse or former spouse) who is a minor. Thus, under the proposed regulations, if an adoptive parent legally adopts an individual who is: (1) A descendant of a parent of the adoptive parent (or the adoptive parent's spouse or former spouse); and (2) under the age of 18 at the time of the adoption, then the adopted individual will be treated as a member of the generation that is one generation below the adoptive parent for purposes of determining whether a transfer from the adoptive parent (or the spouse or former spouse of the adoptive parent, or a lineal descendant of a grandparent of the adoptive parent) to the adopted individual is subject to GST tax.

In addition, the proposed regulations provide that if an individual's generation assignment is adjusted with regard to a transfer under either section 2651(e) or as a result of an adoption described above, a corresponding adjustment with respect to that transfer is made to the generation assignment of that individual's spouse or former spouse, that individual's descendants, and the spouse or former spouse of each of that individual's descendants.

Special Analyses

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department also request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 14, 2004, beginning at 10 a.m., in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by December 2, 2004. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Lian A. Mito of the Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 26 is proposed to be amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Paragraph 1. The authority citation for part 26 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 26.2600–1, the table is amended by:

1. Removing the entries for § 26.2612–1, paragraphs (a)(1) and (a)(2).
2. Adding entries for §§ 26.2651–1, 26.2651–2, and 26.2651–3.

The additions read as follows:

§ 26.2600–1 Table of contents

* * * * *

§ 26.2612–1 Definitions.

§ 26.2651–1 Generation assignment.

(a) Special rule for persons with a deceased parent.
(1) In general.
(2) Special rules.
(3) Established or derived.
(4) Special rule in the case of additional contributions to a trust.
(b) Limited application to collateral heirs.
(c) Examples.

§ 26.2651–2 Individual assigned to more than one generation

(a) In general.
(b) Exception.
(c) Special rules.
(1) Corresponding generation adjustment.
(2) Continued application of generation assignment.

§ 26.2651–3 Effective dates

(a) In general.
(b) Transition rule.

Par. 3. Section 26.2612–1 is amended by:

1. Removing the paragraph designation and heading for (a)(1).
2. Removing paragraph (a)(2).
3. Removing the second sentence of paragraph (f).
4. Removing *Examples 6* and *7* in paragraph (f).
5. Redesignating *Examples 8* through *15* as *Examples 6* through *13* in paragraph (f).
6. Revising the first sentence of newly designated *Example 7* in paragraph (f).
7. Revising the first sentence of newly designated *Example 11* in paragraph (f).

The revisions read as follows:

§ 26.2612–1 Definitions.

(a) * * *

* * * * *

(f) * * *

Example 7. Taxable termination resulting from distribution. The facts are the same as in *Example 6*, except twenty years after C's death the trustee exercises its discretionary power and distributes the entire principal to GGC. * * *

* * * * *

Example 11. Exercise of withdrawal right as taxable distribution. The facts are the same as in *Example 10*, except GC holds a continuing right to withdraw trust principal and after one year GC withdraws $10,000. * * *

* * * * *

Par. 4. Sections 26.2651–1, 26.2651–2 and 26.2651–3 are added to read as follows:

§ 26.2651–1 Generation assignment.

(a) *Special rule for persons with a deceased parent*—(1) *In general.* This paragraph (a) applies for purposes of determining whether a transfer to or for the benefit of an individual who is a descendant of a parent of the transferor (or the transferor's spouse or former spouse) is a generation-skipping transfer. If that individual's parent, who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse), is deceased at the time the transfer (from which an interest of such individual is established or derived) is subject to the tax imposed by chapter 11 or 12 of the Internal Revenue Code on the transferor, the individual is treated as if that individual were a member of the generation that is one generation below the lower of—

(i) The transferor's generation; or

(ii) The generation assignment of the individual's youngest living lineal ancestor who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse).

(2) *Special rules*—(i) *Corresponding generation adjustment.* If an individual's generation assignment is adjusted with respect to a transfer in accordance with paragraph (a)(1) of this section, a corresponding adjustment with respect to that transfer is made to the generation assignment of each—

(A) Spouse or former spouse of that individual;

(B) Descendant of that individual; and

(C) Spouse or former spouse of each descendant of that individual.

(ii) *Continued application of generation assignment.* If a transfer to a trust would be a generation-skipping transfer but for paragraph (a)(1) of this section, any generation assignment determined under this paragraph (a) continues to apply in determining whether any subsequent distribution from (or termination of an interest in) the portion of the trust attributable to that transfer is a generation-skipping transfer.

(iii) *Ninety-day rule.* For purposes of paragraph (a)(1) of this section, any individual who dies no later than 90 days after a transfer is treated as having predeceased the transferor.

(iv) *Local law.* Except as provided in paragraph (a)(2)(iii) of this section, a living descendant is not treated as having predeceased the transferor solely by reason of a provision of applicable local law; *e.g.*, an individual who disclaims is not treated as a predeceased parent solely because state law treats a disclaimant as having predeceased the transferor for purposes of determining the disposition of the disclaimed property.

(3) *Established or derived.* For purposes of section 2651(e) and paragraph (a)(1) of this section, an individual's interest is established or derived at the time the transferor who transferred the property that makes up the interest is subject to transfer tax imposed by either chapter 11 or 12 of the Internal Revenue Code on the property transferred. If the transferor will be subject to transfer tax imposed by either chapter 11 or 12 of the Internal Revenue Code on the property transferred on more than one occasion, then the relevant time for determining whether paragraph (a)(1) of this section applies is the earliest time at which the transferor is subject to the tax imposed by either chapter 11 or 12 of the Internal Revenue Code. However, for purposes of section 2651(e) and paragraph (a)(1) of this section, the interest of a remainder beneficiary in a trust for which an election under section 2056(b)(7) (QTIP election) has been made will be deemed to have been established or derived, to the extent of the QTIP election, on the death of the transferor's spouse (the income beneficiary). The preceding sentence does not apply to a trust for which the election under section 2652(a)(3) (reverse QTIP election) is made.

(4) *Special rule in the case of additional contributions to a trust.* If a transferor referred to in paragraph (a)(1) of this section contributes additional property to a trust that existed before the application of paragraph (a)(1), then the additional property is treated as being held in a separate trust for purposes of chapter 13 of the Internal Revenue Code. The provisions of § 26.2654–1(a)(2) apply as if the portions of the single trust had had separate transferors. Other subsequent contributions are treated as contributions to the appropriate portion of the single trust.

(b) *Limited application to collateral heirs.* Paragraph (a) of this section does not apply in the case of a transfer to any individual who is not a lineal descendant of the transferor (or of the transferor's spouse or former spouse) if the transferor (or the transferor's spouse or former spouse) has any living lineal descendant at the time of the transfer.

(c) *Examples.* The following examples illustrate the provisions of this section:

Example 1. T establishes an irrevocable trust, Trust, providing that trust income is to be paid to T's grandchild, GC, for 5 years. At the end of the 5-year period or on GC's prior death, Trust is to terminate and the principal is to be distributed to GC if GC is living or to GC's children if GC has died. The transfer that occurred on the creation of the trust is subject to the tax imposed by chapter 12 of the Internal Revenue Code and, at the time of the transfer, T's child, C, who is a parent of GC, is deceased. GC is treated as a member of the generation that is one generation below T's generation. As a result, GC is not a skip person and Trust is not a skip person. Therefore, the transfer to Trust is not a direct skip. Similarly, distributions to GC during the term of Trust and at the termination of Trust will not be GSTs.

Example 2. On January 1, 2004, T transfers $100,000 to an inter vivos trust that provides T with an annuity payable for four years or until T's prior death. The annuity satisfies the definition of a qualified interest under section 2702(b). When the trust terminates, the corpus is to be paid to T's grandchild, GC. The transfer is subject to the tax imposed by chapter 12 of the Internal Revenue Code and, at the time of the transfer, T's child, C, who is a parent of GC, is living. C dies in 2006. In this case, C was alive at the time the transfer by T is subject to the tax imposed by chapter 12 of the Internal Revenue Code. Therefore, section 2651(e) and paragraph (a)(1) of this section do not apply. When the trust subsequently terminates, the distribution to GC is a taxable termination.

Example 3. T dies testate in 2002, survived by T's spouse, S, their children, C1 and C2, and C1's child, GC. Under the terms of T's will, a trust is established for the benefit of S and their descendants. Under the terms of the trust, all income is payable to S during S's lifetime and the trustee may distribute trust corpus for S's health, support and maintenance. At S's death, the corpus is to be distributed, outright, to C1 and C2. If either C1 or C2 has predeceased S, the deceased child's share of the corpus is to be distributed to that child's descendants, per stirpes. The executor of T's estate makes the election under section 2056(b)(7) to treat the trust property as qualified terminable interest property (QTIP) but does not make the election under section 2652(a)(3) (reverse QTIP election). In 2003, C1 dies survived by S and GC. In 2004, S dies, and the trust terminates. The full fair market value of the trust is includible in S's gross estate under section 2044 and S becomes the transferor of the trust under section 2652(a)(1)(A). Under the rule in paragraph (a)(3) of this section, GC's interest is considered established or derived at S's death, and because C1 is deceased at that time, GC is treated as a member of the generation that is one generation below the generation of the transferor, S. As a result, GC is not a skip person and the transfer to GC is not a direct skip.

Example 4. The facts are the same as in *Example 3.* However, the executor of T's estate makes the election under section 2652(a)(3) (reverse QTIP election) for the entire trust. Therefore, T remains the transferor because, for purposes of chapter 13 of the Internal Revenue Code, the election to be treated as qualified terminable interest property is treated as if it had not been made. In this case, the rule in paragraph (a)(3) of this section does not apply, so GC's interest is established or derived on T's death in 2002. Because C1 was living at the time of T's death, the predeceased parent rule under section 2651(e) does not apply, even though C1 was deceased at the time the transfer from S to GC is subject to the tax under chapter 11 of the Internal Revenue Code. When the trust terminates, the distribution to GC is a taxable termination that is subject to the GST tax to the extent the trust has an inclusion ratio greater than zero. See section 2642(a).

Example 5. T establishes an irrevocable trust providing that trust income is to be paid to T's grandniece, GN, for 5 years or until GN's prior death. At the end of the 5-year period or on GN's prior death, the trust is to terminate and the principal is to be distributed to GN if living, or if GN has died, to GN's descendants, per stirpes. S is a sibling of T and the parent of N. N is the parent of GN. At the time of the transfer, T has no living lineal descendant, S is living, N is deceased, and the transfer is subject to the gift tax imposed by chapter 12 of the Internal Revenue Code. GN is treated as a member of the generation that is one generation below T's generation because S, GN's youngest living lineal ancestor who is also a descendant of T's parent, is in T's generation. As a result, GN is not a skip person and the transfer to the trust is not a direct skip. In addition, distributions to GN during the term of the trust and at the termination of the trust will not be GSTs.

Example 6. On January 1, 2004, T transfers $50,000 to the great grandchild, GGC, of B, a brother of T. At the time of the transfer, B's grandchild, GC, who is a parent of GGC and a child of B's living child, C, is deceased. GGC will be treated as a member of the generation that is one generation below the lower of T's generation or the generation assignment of GGC's youngest living lineal ancestor who is also a descendant of the parent of the transferor. In this case, C is GGC's youngest living lineal ancestor who is also a descendant of the parent of T. Because C's generation assignment is lower than T's generation, GGC will be treated as a member of the generation that is one generation below C's generation assignment (*i.e.*, GGC will be treated as a member of GC's generation). As a result, GGC remains a skip person and the transfer to GGC is a direct skip.

§ 26.2651–2 Individual assigned to more than 1 generation.

(a) *In general.* Except as provided in paragraphs (b) or (c) of this section, an individual who would be assigned to more than 1 generation is assigned to the youngest of the generations to which that individual would be assigned.

(b) *Exception.* An adopted individual will be treated as a member of the generation that is one generation below the adoptive parent for purposes of determining whether a transfer to the adopted individual from the adoptive parent (or the spouse or former spouse of the adoptive parent, or a lineal descendant of a grandparent of the adoptive parent) is subject to chapter 13 of the Internal Revenue Code. For purposes of this paragraph (b), an adopted individual is an individual who is—

(1) A descendant of a parent of the adoptive parent (or the spouse or former spouse of the adoptive parent); and

(2) Under the age of 18 at the time of the adoption.

(c) *Special rules*—(1) *Corresponding generation adjustment.* If an individual's generation assignment is adjusted with respect to a transfer in accordance with paragraph (b) of this section, a corresponding adjustment with respect to that transfer is made to the generation assignment of each—

(i) Spouse or former spouse of that individual;

(ii) Descendant of that individual; and

(iii) Spouse or former spouse of each descendant of that individual.

(2) *Continued application of generation assignment.* If a transfer to a trust would be a generation-skipping transfer but for paragraph (b) of this section, any generation assignment determined under paragraph (b) of this section continues to apply in determining whether any subsequent distribution from (or termination of an interest in) the portion of the trust attributable to that transfer is a generation-skipping transfer.

§ 26.2651–3 Effective dates.

(a) *In general.* The rules of §§ 26.2651–1 and 26.2651–2 are applicable for terminations, distributions, and transfers occurring on or after the date these regulations are issued as final regulations in the **Federal Register.**

(b) *Transition rule.* (1) The rule contained in the last two sentences of § 26.2651–1(a)(3) is applicable for terminations, distributions, and transfers occurring on or after the date these regulations are issued as final regulations in the **Federal Register.**

(2) Except as provided in paragraph (b)(1) of this section, in the case of transfers occurring after December 31, 1997, and before the date that this document is published in the **Federal**

Register as a final regulation, taxpayers may rely on any reasonable interpretation of section 2651(e). For this purpose, these proposed regulations are treated as a reasonable interpretation of the statute.

Deborah M. Nolan,

Acting Deputy Commissioner for Services and Enforcement.

[FR Doc. 04–20165 Filed 9–2–04; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP–2004–0038; FRL–7371–3]

RIN 2070–AD36

Pesticides; Emergency Exemption Process Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing several revisions to its regulations governing emergency exemptions that allow unregistered uses of pesticides to address emergency pest conditions for a limited time. The first significant change would allow applicants for certain repeat exemptions a simple way to re-certify that the emergency conditions that initially qualified for an exemption continue to exist in the second and third years. The second significant proposal would re-define significant economic loss and adjust the data requirements for documenting the loss. These proposed revisions would streamline and improve the application and review process by reducing the burden to both applicants and the EPA, allowing for quicker decisions by the Agency, and providing for more consistently equitable determinations of "significant economic loss" as the basis for an emergency. These two proposals are currently being employed in limited pilot programs. In addition, EPA is proposing several minor revisions to the regulations to clarify that quarantine exemptions may be used for control of invasive species, and to update or revise certain administrative aspects of the regulations. All of these proposed revisions can be accomplished without compromising protections for human health and the environment.

DATES: Comments must be received on or before November 2, 2004.

ADDRESSES: Submit your comments, identified by docket ID number OPP–2004–0038, by one of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.

Agency Web Site: *http://www.epa.gov/edocket/*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

E-mail: *opp-docket@epa.gov*.

Mail: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

Hand Delivery: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number OPP–2004–0038. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL–7181–7). For additional instructions on submitting comments, go to Unit I.C. of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–9072; fax number: 703–305–5884; e-mail address: *hogue.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal, State, or Territorial government agency that petitions EPA for an emergency use authorization under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Regulated categories and entities may include, but are not limited to:

- Federal Government (NAICS Code 9241), i.e., Federal agencies that petition EPA for section 18 use authorization.
- State or Territorial governments (NAICS Code 9241), i.e., States, as defined in FIFRA section 2(aa), that petition EPA for section 18 use authorization.

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

certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the summary of the applicability provisions as found in Unit III.B. of this proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 166 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Purpose

The primary purpose of this notice of proposed rulemaking is to simplify the process of applying for emergency exemptions, and allow for quicker responses to emergency pest conditions, without affecting current protections for human health and the environment. This document proposes several revisions to the regulations at 40 CFR part 166, in an effort to make a variety of improvements to the pesticide emergency exemption program and process. The two most significant of the revised practices being proposed are streamlining provisions intended to reduce the burden to both applicants and the Agency, and expedite decisions on exemption requests. The first of these revisions would expressly authorize applicants for certain repeat exemptions to re-certify that an emergency condition continues in the second and third years, and to incorporate by reference all information submitted in a previous application rather than annually submit complete applications. The second revision would pertain to the determination of "significant economic loss," shifting the emphasis from the historical profit variability to the potential loss relative to yields and/or revenues without the emergency, and establishing a tiered analysis that will in many cases substantially reduce applicants' data burden related to substantiating the significance of losses. Each of these revisions would streamline the application and review process for emergency exemptions. In addition, the proposed economic assessment approach would directly result in more consistently equitable determinations of whether a significant economic loss is expected than does the current approach. These two streamlining proposals are currently being employed in limited pilot projects.

EPA also intends to achieve several other objectives in this proposed rule. First, revisions are proposed to correct or update several minor administrative aspects of the emergency exemption regulations, which have not been revised since 1986. The reason for each of these minor administrative revisions falls into one of the following categories: Correction of typographical or administrative errors; conformance with requirements of the Food Quality Protection Act of 1996 (FQPA); and codification of improved practices that have been voluntarily but widely followed by applicants. Second, the Agency is proposing to add specific language to the regulations to clarify that treatment of "invasive species" is a valid basis for issuing a quarantine exemption. Third, this proposed rule includes a discussion of how the Agency protects endangered and threatened species, and ensures compliance with the Endangered Species Act, through its implementation of the emergency exemption program. No regulatory proposals are included relative to endangered species measures. Finally, this proposed rule informs the public that EPA has revised its tentative plan to include in this proposed rule a proposal to allow exemptions for the purpose of pest resistance management. An explanation of why resistance management exemptions are not being proposed at this time, and a discussion of what alternative plans the Agency has for addressing resistance management, are included.

The Agency encourages interested parties to submit comments on any of the proposed regulatory revisions by following the instructions under **ADDRESSES**. Commenters should explain any modifications they suggest for the proposed revisions, along with their rationale. EPA would like applicants for emergency exemptions to submit comments concerning their experience with the pilot for the two streamlining provisions being proposed. Applicants who have participated in the pilot are asked to submit comments explaining the pros and cons of the revised practices. Applicants who were eligible for, but elected not to participate in, the pilot are asked to submit comments explaining why they did not participate. Units V. and VI. outline the specific revisions being proposed, but also include discussion asking potential commenters to consider alternative approaches for particular aspects of the proposal. In addition to inviting public comments on this proposed rule, EPA plans to consult the Pesticide Program Dialogue Committee (PPDC) on these proposed revisions, as it has prior to initiating the pilot for the streamlining proposals. Input from the public comments received in response to this proposed rule, and experience from the pilot will be carefully considered, when deciding whether to modify these proposed revisions for the final rule.

III. Statutory and Regulatory Framework

A. Statutory Authority

EPA regulates the use of pesticides under the authority of two federal statutes: the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA).

FIFRA provides the basis for regulation, sale, distribution and use of pesticides in the United States. FIFRA generally prohibits the sale and distribution of any pesticide product, unless it has been registered by EPA in accordance with section 3. (7 U.S.C. 136a.). Section 18 of FIFRA gives the Administrator of EPA broad authority to exempt any Federal or State agency from any provision of FIFRA if the Administrator determines that emergency conditions exist which require such an exemption. (7 U.S.C. 136p). Under section 2(aa) of FIFRA, the term "State" is defined to include a "State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and America Samoa." (7 U.S.C. 136(aa)).

Section 408 of FFDCA authorizes EPA to set maximum residue levels, or tolerances, for pesticides used in or on foods or animal feed, or to exempt a pesticide from the requirement of a tolerance, if warranted. (21 U.S.C. 346a).

B. Existing Regulatory Provisions

Regulations governing FIFRA section 18 emergency exemptions are codified in 40 CFR part 166. Generally, these regulations set forth information requirements, procedures, and standards for EPA's approval or denial of a request from a Federal or State agency for an exemption to allow a use of a pesticide that is not registered when such use is necessary to alleviate an emergency condition.

Federal and State agencies may apply for an emergency exemption due to a public health emergency, a quarantine emergency, or a "specific" emergency. Most emergency exemptions requested or approved fall under the category of "specific exemptions" and are requested in order to avert an economic emergency for an agricultural activity. Typical justifications for specific exemptions include, but are not limited to, the expansion of the range of a pest; the cancellation or removal from the market of a previously registered and effective pesticide product; and the development of resistance in pests to a registered product, or loss of efficacy of available products for any reason. Additionally, an emergency situation is generally considered to exist when no other viable (chemical or non-chemical) means of control exist, and where the emergency situation will cause significant economic losses to affected individuals if the exemption is not approved.

A Federal or State agency must submit an emergency exemption request in writing that documents the emergency situation, the pesticide proposed for the use, the target pest, the crop, the rate and number of applications to be made, the geographical region where the pesticide would be applied, and a discussion of risks that may be posed to human health or to the environment as a result of the pesticide use (40 CFR 166.20). EPA reviews the request, verifying the existence of the emergency, assessing risks posed to human health through food, drinking water, and residential exposure, assessing risks posed to farmworkers and other handlers of the pesticide, assessing any adverse effects on non-target organisms (including Federally listed endangered species), and assessing the potential for contamination of ground water and surface water. If an application for the requested use has been made in previous years, EPA also does an assessment of the progress toward registration for the use of the requested chemical on the requested crop, and considers this status in the final determination to approve or deny the exemption. If EPA concludes that the situation is an emergency, and that the use of the pesticide under the exemption will be consistent with the standards of section 18 and 40 CFR part 166, and, for food uses, section 408 of FFDCA, then EPA may authorize emergency use of the pesticide.

Use under specific and public health exemptions can be authorized for periods not to exceed 1 year, and uses under quarantine exemptions can be authorized for up to 3 years (40 CFR 166.28). Public health exemptions are for the control of pests that will cause a significant risk to human health, while quarantine exemptions are intended to control the introduction or spread of pests that are new or not known to be widely prevalent or distributed within and throughout the United States and its territories. Emergency exemptions should not be viewed as an alternative to registering the use(s) needed for longer periods. If the situation addressed with the section 18 exemption persists, or is expected to persist, affected entities must take the proper steps to amend the existing registration or seek a new registration to address that future need.

IV. Background

A. April 2003 Notice Initiating Pilot for Two Revisions Now Being Proposed

EPA published a Notice in the **Federal Register** on April 24, 2003 (68 FR 20145) (FRL–7293–6), announcing the initiation of a limited pilot program to test two potential improvements to the emergency exemption process. The two potential improvements currently being piloted are: (1) Allowing applicants for certain repeat exemptions to re-certify that the emergency condition still exists in the second and third years, and to incorporate by reference all information submitted in a previous application rather than annually submit complete new applications and, (2) a new approach to documenting a significant economic loss that focuses on the significance of the potential loss relative to yields and/or revenues without the emergency rather than comparison to historical profit variation. The April 2003 Notice also discussed whether exemptions for the purpose of pest resistance management might be allowed. Finally, the Notice solicited public comment on all three potential changes, and announced EPA's plan to issue a proposed rule addressing them. The two revised practices included in the pilot are also included in this proposed rule, without the restriction to reduced-risk pesticides that limits the scope of the pilot.

Anyone interested in the background leading up to the pilot program, or other related documents, may wish to review the **Federal Register** Notice announcing the pilot, and the related documents. A public docket was established for that Notice under docket ID number OPP–2002–0231. Interested parties should follow instructions under **ADDRESSES** for accessing the docket, but use docket ID number OPP–2002–0231 to access the docket for the April 24, 2003 Notice.

B. Summary of Early Pilot Experience

The pilot program is limited to requests for a specific set of "reduced-risk" pesticides, which significantly limits the number of potentially eligible exemption requests. The summary of participation in the pilot focuses on the 2003 growing season, since the 2004 season was still underway at this time.

The first part of the pilot allowed applicants for eligible repeat exemptions to re-certify the existence of their emergency condition. The re-certification pilot involves exemptions that meet all of the following eligibility criteria: (1) EPA approved the same exemption the previous year, and it is the second or third year of the request

by that applicant, (2) the emergency situation can reasonably be expected to continue for longer than 1 year, (3) the exemption is not for a new chemical, a first food use, or for a chemical under Special Review, and (4) the exemption is for a chemical previously identified by EPA as reduced-risk. For the 2003 growing season, 16 exemptions were identified by EPA as eligible for re-certification and the list was made available to States and the public. Of the 16 exemptions eligible to repeat by re-certification, 7 submitted applications using re-certification. Of the nine exemptions that were eligible but for which no re-certification was submitted, three were for pesticide uses that had obtained federal registration under FIFRA section 3 since the 2002 exemption; three were not requested at all in 2003; and the remaining three were requested using conventional emergency exemption requests. In the seven instances of a re-certification, EPA staff was able to make expedited decisions with an average of 9 days from receipt of the request until the decision was made.

The second part of the pilot, for the loss-based approach for determining a significant economic loss, is limited only by the restriction to reduced-risk pesticides. Unlike the re-certification part of the pilot, there is no specific list of eligible exemptions, only eligible pesticide active ingredients to be requested. Therefore, there is no fixed number of eligible exemptions for the loss-based economic approach. EPA did not receive any submissions using the loss-based approach for determining a significant economic loss under the terms of the pilot during the 2003 growing season, although we have already received some in 2004. For the past year, the Agency has routinely prepared side-by-side assessments that evaluate the data under the traditional method, as well as the loss-based approach outlined in the pilot, to gain a better understanding and compare the ways of measuring whether pest situations represent emergencies. The loss-based approach is considered to measure more accurately the significance of losses associated directly with the pest problem, and is less influenced by other factors such as market fluctuations. In addition, cursory assessments of available past submissions have been done using the loss-based approach.

Both of these proposed revisions offer a cost saving and reduce the burden on States as well as on EPA. The Agency expects that the level of participation in both areas of the pilot will increase as the level of familiarity and understanding among State agencies increases. Efforts to facilitate the understanding and use of the pilot initiatives are currently underway.

V. Proposed Revisions to Emergency Exemption Process

The two revisions discussed below are currently being employed in limited pilot programs that were initiated by a **Federal Register** Notice in April 2003. A guidance document was prepared for use by applicants to participate in the pilot programs. After reviewing this Unit V., interested parties may find it useful to review that guidance document for the Agency's detailed plans for implementation of these revisions. A final guidance document will be made available when a final rule is published. In the meantime, the guidance document for the pilot would be particularly helpful in understanding what information would be required to be submitted by applicants under the proposed revisions. The pilot guidance document for the 2004 growing season is available in the public docket. Interested parties should follow instructions under **ADDRESSES**.

A. Re-certification of Emergency Condition by Applicants

1. *What is our current practice?* EPA authorizes emergency exemptions (except quarantine exemptions) for no longer than 1 year. However; depending on the nature of the non-routine condition that caused the emergency, some exemptions may subsequently be approved again, 1 year at a time. Currently, EPA conducts a full review of an application for the first year of an exemption, to determine whether an emergency condition exists, to ensure the use will not result in unreasonable adverse effects to human health or the environment, and, if the use will result in pesticide residues in food or feed, to make a safety finding consistent with section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA).

If the emergency condition continues in subsequent years, applicants may submit a similar application, in which case the Agency must again confirm the emergency condition and acceptability of the risk. For requests after the first year, the applicant again submits information to support the emergency finding, with a full application, including updated economic data. For these repeat requests EPA reevaluates the situation to determine, relative to the first year, whether: (1) The emergency condition has changed; (2) any alternative products have been newly registered for the use, or other effective pest control techniques are now available; (3) any changes have occurred in the status of the chemical's risk assessment; (4) the requested conditions of use have changed; and (5) the pesticide for the requested use has made sufficient progress towards registration.

2. *How would re-certification work under the proposed approach?* This proposed revision would reduce the burden on applicants who seek re-approval of certain emergency exemptions in subsequent years. EPA proposes to add a new paragraph (b)(5) to 40 CFR 166.20, which would allow applicants for eligible repeat exemptions to submit applications that rely on the preceding year's submission to document the economic impact of the pest emergency. This re-certification approach would allow applicants to incorporate by reference all information submitted in a previous application, instead of submitting a complete re-application and supporting documentation. The re-certification of the emergency condition by the applicant combined with the materials already in EPA's files would serve as the basis for EPA's determination as to whether an emergency condition continues to exist.

Upon approval of any emergency exemption, EPA would make an up-front, separate, additional determination regarding eligibility for a streamlined re-certification application the following year, in the event that the applicant reapplies the next year. Eligibility for a re-certification application would not determine whether an emergency exemption application could be approved. Rather eligibility would affect the information that should be submitted in the application. EPA would consider several factors in determining eligibility to use a streamlined re-certification application:

1. *Whether the emergency situation could reasonably be expected to continue for longer than 1 year.* An emergency situation could reasonably be expected to continue where, for example, a registered product relied upon by growers becomes permanently unavailable, a pest expands its range, or a registered product ceases to be effective against a pest. Situations that would not be expected to continue would include a temporary supply problem of a registered product, an isolated weather event, or a sporadic pest outbreak.

2. *Whether an emergency exemption has been approved more than twice for the same pesticide at the same site.* EPA recognizes that some emergency situations can continue for more than 1 year, however, pesticide registration

pursuant to FIFRA section 3 is the appropriate long-term response, rather than the section 18 emergency exemption. According to the regulations and EPA policy, a failure to request registration of a use requested under section 18 for more than 3 years may indicate that adequate progress toward registration is not being made. Therefore, EPA carefully examines all exemption submissions submitted for more than 3 years.

3. *Whether the pesticide product, owing to its regulatory status, warrants heightened review before any additional use is approved.* EPA will rely on the same criteria used in the existing regulations at 40 CFR 166.24(a), which identifies a number of different situations where, upon receipt of an application for an emergency exemption, the regulatory status of a pesticide product calls for public notice and comment:

(1) The application proposes use of a new chemical.

(2) The application proposes the first food use of an active ingredient.

(3) The application proposes any use of a pesticide if the pesticide has been subject to a suspension notice under section 6(c) of the Act.

(4) The application proposes use of a pesticide which:

(i) Was the subject of a notice under section 6(b) of the Act and was subsequently canceled.

(ii) Is intended for a use that poses a risk similar to the risk posed by any use of the pesticide which was the subject of the notice under section 6(b).

(5) The application proposes use of a pesticide which:

(i) Contains an active ingredient which is or has been the subject of a Special Review.

(ii) Is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been the subject of the Special Review.

In instances where EPA determines that the emergency situation could reasonably be expected to continue, where an emergency exemption has been approved not more than twice for the same pesticide at the same site, and where the pesticide product's regulatory status does not warrant heightened review, EPA would notify the successful applicant that, should it re-apply the following year, it is eligible to use a re-certification application. EPA anticipates that this notification would be included in the notice of approval of the current year's application. However, if an exemption is not classified as a candidate for re-certification in the approval notice, and an applicant believes that subsequent information would make it eligible, the applicant may contact the Agency to request an eligibility determination. In some instances, EPA may determine that an emergency condition exists, and that the exemption is eligible for a re-certification application the following year, yet conclude that additional information should be gathered in order to support approval in future years. In such instances, EPA may indicate in the approval notice that the exemption is eligible for re-certification upon submission of the specified information.

Under the proposed rule, an eligible re-certification applicant would be exempted from the information requirements of 40 CFR 166.20(a)(1) through (a)(10), and of the existing 40 CFR 166.20(b), where the applicant certifies that:

(i) The emergency condition described in the preceding year's application continues to exist.

(ii) Except as expressly identified, all information submitted in the preceding year's application is still accurate.

(iii) Except as expressly identified, the proposed conditions of use are identical to the conditions of use EPA approved for the preceding year.

(iv) Any conditions or limitations on the eligibility for re-certification identified in the preceding year's notice of approval of the emergency exemption have been satisfied.

Applicants meeting the above requirements would not need to submit new, updated documentation that the emergency condition continues or the additional data elements generally required under 40 CFR 166.20, except that the interim report specified in 40 CFR 166.20(a)(11) would still be required where a re-certification is filed before the final report on the previous exemption is available.

Eligibility for re-certifying the emergency condition would not determine whether an emergency exemption application could be approved. For applications that are eligible and include a proper re-certification of the emergency condition, EPA would again determine whether the requested use poses a risk to human health or the environment that exceeds statutory and regulatory standards. If the risks posed by the requested use are determined to be unacceptable, the exemption request would be denied unless the risks could be mitigated. Where an application re-certifies that the emergency condition and requested use are the same as in the initial year of the exemption, EPA would only re-evaluate the situation to determine, relative to the first year, whether: (1) Any alternative products have been newly registered for the use; (2) any changes have occurred in the status of the chemical's risk assessment; (3) the requested conditions of use have changed; and, (4) the pesticide for the requested use has made sufficient progress towards registration. If an effective product has been registered for the requested use since the previous exemption was approved, then an emergency condition may no longer exist. If the Agency has received new risk information since approving the previous exemption, then the risk would be re-evaluated. Likewise, if the request includes any change in the conditions of use that may increase exposure (application rate, number of applications, type of application, pre-harvest interval, re-entry interval, total number of acres, and all other directions for use) then the risk would also be re-evaluated. Because some applicants may start their 3–year re-certification period in later years than others, it is possible that EPA may determine that sufficient progress towards registration has not been made for a pesticide requested by an applicant eligible for re-certification.

For eligible requests where the applicant has certified a continuing emergency, if the three remaining review factors (product registrations, risk assessment status, and requested conditions of use) have not changed, the Agency's review time is expected to be significantly reduced. In such cases, applicants are expected to benefit by expedited decisions, in addition to the reduced burden due to the certification of the emergency. Applicants would be permitted to modify the conditions of the emergency use in an application in which they re-certify the emergency. However, EPA would need to determine whether, and how, such changes impact exposure and risk to human health or the environment. Therefore, such changes may undercut the Agency's ability to make an expedited decision. If the conditions of use are the same as the conditions of use in the exemption approved by EPA in the previous year, applicants may include a separate certification that their requested conditions of use have not changed, and incorporate by reference all conditions of use submitted in a previous application or applications. This certification that the conditions of use are unchanged would aid in expediting the Agency's decision.

If the Agency determines that there has been insufficient progress towards registration of the requested chemical on the requested crop, a request could be denied, consistent with current regulations and practice, regardless of eligibility for submitting a re-

certification application. Registrant progress toward registration is determined for a pesticide-crop combination, whereas the year-count (first, second, third) in the eligibility cycle for re-certification would be determined separately for each State/Federal applicant, and could often differ among section 18 applicants in a given year. Lack of progress towards registration would not cause denials during the first 3 years of exemptions for a chemical-crop combination. However, since some applicants may apply for the first time in a year subsequent to the first request for a chemical-crop combination by another applicant, lack of progress towards registration could potentially interrupt the eligibility cycle for some applicants.

It is EPA's view that section 18 applies to non-routine conditions, and thus the Agency does not expect to re-approve emergency exemptions indefinitely. Under this proposal EPA would not allow submission of re-certification applications where exemptions have been previously granted for 3 or more years. As provided in 40 CFR 166.25(b)(2)(ii), an applicant for an emergency exemption for a use that has been subject to an emergency exemption in 3 previous years will be required to demonstrate reasonable progress towards registering the product for the use, as part of a full application.

3. *Why propose this change*? Allowing applicants for certain eligible exemption requests to re-certify the existence of an ongoing emergency condition and to incorporate by reference all information submitted in a previous application is expected to reduce the burden to both applicants and EPA as well as allow for quicker decisions. When an applicant certifies the continuation of the emergency condition and incorporates previously submitted materials by reference, a complete new application sufficient to characterize the situation in accordance with 40 CFR 166.20 will not be required. This will save applicants time and effort in gathering data and preparing their submissions. The Agency will save time and resources by not having to annually repeat each step of its review of the documents supporting the exemption requests. If no pesticides that could avert the emergency have been newly registered, and nothing has changed to affect the assessment of risk, then re-certification of an emergency will lead to significantly shorter Agency review.

EPA's experience indicates that emergency situations that continue after the initial year generally are projected to cause comparable yield losses in succeeding years. Therefore, with the certification of a continuing emergency, reliance on the previously submitted data and other supporting information should be adequate to support a decision to approve or deny an emergency exemption application.

B. Determining and Documenting "Significant Economic Loss"

1. *What is our current practice*? In determining whether a pest emergency is likely to result in "significant economic loss," EPA ordinarily compares the affected growers' projected per-acre "profits" (gross revenue less expenses, where expenses have often been poorly defined) for the affected crop, based on anticipated yield losses, to the historical variation in their "profits" for that crop in that region. Applicants are required under 40 CFR 166.20(b)(4) to submit economic information necessary to make this determination. In addition to information used to estimate the amount of the anticipated yield and profit losses, EPA generally asks for annual data for 5 years of average yields, prices, and production costs to establish profit variability.

Under the current approach, EPA and applicants estimate expected net revenues under the emergency conditions and compare them to the variation in annual profitability during the previous 5 years. If the expected net revenues under the emergency are less than the smallest net revenues of the previous 5 years, then the Agency would typically conclude that a significant economic loss will occur. Some crops have very wide fluctuations in net revenues (that in many cases are the result of market forces entirely unrelated to pest pressure). For such crops, growers may experience a large economic loss due to non-routine pest-related conditions, without a significant economic loss finding by EPA under strict adherence to the current approach. Other crops may have very little variation in historical net revenues, which could lead to a very small economic loss being found significant under the current approach.

2. *How would the proposed approach work*? This second proposed improvement would focus EPA's analysis on the economic impact of the pest emergency relative to yields and/or revenues without the pest emergency, rather than comparing it to historical profit variation for the crop and region. Moreover, the new approach would allow applicants to document economic losses with a less burdensome methodology where appropriate.

The proposed loss-based approach would use the existing methodology to calculate the economic consequences of an unusual pest outbreak, although the calculation would be done in steps (tiers) and sometimes the later steps would be unnecessary. States would still have to submit data to demonstrate the emergency nature of the outbreak including the expected losses in quantity, and sometimes quality and/or additional production costs. However, the proposed approach would impose standard criteria for determining the significance of that loss, rather than comparing losses to past variations in revenue or profit. The goal of the criteria is to compare losses to farm or firm income in the absence of the emergency in a manner that can be easily and consistently measured. Further, successive screening levels (tiers) have been chosen that will permit situations that clearly qualify to be resolved quickly, with a minimum of data. Each tier has a quantitative threshold that would generally apply to all eligible emergency exemption applications. If the pest situation does not appear likely to result in a significant economic loss based on the first tier analysis, it might qualify based on further analysis in succeeding tiers. Each additional tier would require more data and involve more analysis on how the emergency affects revenues. Where conditions do not neatly fit into the tiered approach, for example long-term losses in orchard crops, the Agency would make its significant economic loss determinations based on other criteria, such as changes in the net present value of an orchard, if these losses are demonstrated by the applicant.

Tier 1: Yield loss. Tier 1 is based on crop yield loss. If the projected yield loss due to the emergency condition is sufficiently large, EPA would conclude that a significant economic loss will occur, due to the magnitude of the expected revenue loss. The yield loss threshold in Tier 1 would be 20% for all crops. This threshold is set at a sufficiently high level such that a loss that exceeded the threshold would also meet the thresholds in Tiers 2 and 3, if the additional economic data were submitted and analyzed. Therefore, for such large yield losses it would not be necessary to separately estimate economic loss, which would require detailed economic data.

Tier 2: Economic loss as a percentage of gross revenues. A yield loss that does not satisfy the threshold in Tier 1 may nonetheless cause a significant economic loss because yield loss alone may not reflect all economic losses. In addition to yield losses, there may be other impacts that contribute to economic loss. Quality losses may result

in reductions in prices received and/or there may be changes in production costs, such as pest control costs and harvesting costs. For situations with yield losses that do not meet the significant economic loss criterion for Tier 1, EPA would evaluate estimates of economic loss as a percent of gross revenue in Tier 2, to determine if the loss meets that threshold for a significant economic loss. The economic loss threshold in Tier 2 would be 20% of gross revenue for all crops. Again, this threshold in Tier 2 is set with the intention that losses exceeding the threshold would also meet the threshold in Tier 3, if the additional Tier 3 analysis were performed.

Tier 3: Economic loss as a percentage of net revenues. If neither yield or economic losses were above the required thresholds in Tiers 1 and 2, EPA would compare impacts to net revenues. Net revenues are defined for the purposes of this proposed rule as gross revenues minus operating costs. The loss threshold in Tier 3 would be 50% of net revenues for all crops. Some emergency conditions that would fall short of the thresholds in Tiers 1 and 2 may qualify as a significant economic loss in Tier 3, particularly for crops with narrow profit margins (net revenues as a percentage of gross revenues). Even if economic loss seems small in comparison to gross revenues, the situation could still be a significant economic loss if the profit margin is narrow.

EPA selected the sizes of the proposed thresholds (20%, 20%, and 50%) based on average farm income and production expenses in the U.S., and an analysis of past requests showing what results the proposed method would provide with various thresholds. Data on farm income in "USDA Agricultural Statistics, 2003" shows that net farm income averages about 20% of gross revenue. Therefore, an economic loss of 20% of gross revenue would be sufficient to eliminate net farm income. A yield loss of 20% results in economic loss of 20% or higher. Also, since average net farm income is a little less than 50% of net revenue, an economic loss that is 50% of net revenue would be sufficient to eliminate net farm income. The analysis of past requests indicated that the average and median economic losses that qualified as a significant economic loss were about 18% and 15% of gross revenue, respectively. Since the first 2 tiers are screening thresholds, these thresholds were rounded up to 20% to be a little more stringent, with the intention that if a request did not pass Tiers 1 or 2, it could qualify with Tier 3. The analysis of past requests also showed that the median economic loss that qualified as a significant economic loss was about 51% of net revenue. The analysis also showed that these thresholds collectively result in about the same overall likelihood of an application qualifying for a significant economic loss. That is, approximately the same total number of emergency requests that qualified for a significant economic loss using the current approach would qualify using the proposed loss-based approach, although there would be some differences in individual cases.

The regulatory revisions in this proposed rule include the quantitative thresholds for the three tiers, presented above, as this is EPA's preferred approach. Commenters are asked to consider whether the actual thresholds should be included in the revised regulations, or whether more flexibility should be preserved to refine that aspect of the proposed approach in the future. Commenters should also consider whether the levels of the proposed thresholds are appropriate, and if not, what the levels should be and why.

For specific emergency exemptions (the only ones in which significant economic loss is a qualifying factor), EPA anticipates that applicants would first determine whether their projected loss meets the Tier 1 yield loss threshold of 40 CFR 166.3(h)(1)(i), analytically the least burdensome criterion. The associated data requirements are proposed in 40 CFR 166.20(b)(4)(i). If the projected loss does not meet this threshold, EPA expects that applicants would determine whether their projected loss meets the Tier 2 gross revenue threshold of 40 CFR 166.3(h)(1)(ii), providing additional data as noted in 40 CFR 166 20(b)(4)(ii). Failing to meet that threshold, applicants would submit the data to perform the analysis necessary for the Tier 3 net revenue threshold of 40 CFR 166.3(h)(1)(iii) as given in 40 CFR 166.20(b)(4)(iii). The three tiers established in 40 CFR 166.3(h)(1)(i), (ii) and (iii) are designed such that when an emergency condition qualifies for significant economic loss under a lower tier, data for higher tiers are not required, and the burden and cost of preparing the emergency exemption application are reduced. Each successive tier builds upon the previous one. That is, the information required for estimating a lower tier is also necessary in estimating each higher tier. This would allow an applicant to collect data, and build a case for significant economic loss, as needed and determined by the conditions, without requiring additional unnecessary data.

This loss-based approach is designed to capture the economic impact of pest activity as it affects the current growing season, which will be sufficient for most emergency exemption applications. Although the loss-based approach appears in a proposed revision to the definition of significant economic loss at 40 CFR 166.3(h)(1), EPA is not attempting to revise the approach for other types of losses, at the proposed 40 CFR 166.3(h)(2). Where losses affect more than the current growing season, for example long-term losses in orchard crops, the Agency would continue to make its significant economic loss determinations based on other criteria, such as changes in the net present value of an orchard, if these losses are demonstrated by the applicant. In situations where the simple methods of the loss-based approach would not adequately reflect the likely extent of the economic loss, EPA would still attempt to determine, on a case-by-case basis, whether the pest emergency is likely to result in a substantial loss or impairment of capital assets, or a loss that would affect the long-term financial viability expected from the productive activity.

3. *Why propose this change*? This proposed methodology for determining a significant economic loss is intended to streamline the data and analytical requirements for emergency exemption requests, and allow for quicker decisions by EPA. In addition, the methodology is designed to reflect more accurately the significance of an anticipated economic loss. Specifically, this approach makes a more direct comparison between the losses anticipated owing to the emergency situation and the yield and/or revenues without the pest emergency, rather than a comparison to the historical range of profit variability. Year-to-year profit variability often reflects market forces entirely unrelated to pest pressure. Although EPA has attempted to make allowances for crops' differing profit variability when determining the economic significance of losses under the current approach, EPA now believes that the loss-based approach better and more directly permits EPA to evaluate the significance of economic losses.

An analysis of past section 18 requests suggests that this proposed approach would not cause a significant change in the overall likelihood of a significant economic loss finding, although findings may differ in individual cases. Further, it is expected to lead to savings to both applicants and EPA from reduced data and analytical burdens. Under the proposed procedure, applicants could elect to submit the

minimum amount of data necessary to demonstrate a significant economic loss in one of three increasingly refined tiers. If the first tier is sufficient, the burden is reduced most significantly. Even in the highest tier, the burden may be reduced relative to the current approach as the analysis focuses on the current year rather than historical data. Like re-certification of emergencies, this would save applicants time and resources in gathering data and preparing submissions. The Agency's burden would be reduced due to streamlined reviews.

An analysis of available past requests for emergency exemptions submitted by States, including requests for which significant losses were not found, shows that in many cases significant economic loss can be adequately demonstrated in a more flexible manner without loss of reliability through the proposed methodology. The loss-based approach would require less data from applicants in cases that qualify under Tier 1, where the same conclusion of a significant economic loss would be made with the additional data and analysis under the higher tiers.

Because the proposed approach shifts the focus from annual price variability to actual pest-related losses, while still considering typical net revenues for the crop and State, it leads to more consistently accurate findings of the significance of economic losses. Under the current approach, producers of crops that have very wide fluctuations in net revenues, even if due to price variability, may experience a large economic loss due to non-routine pest-related conditions, without a significant economic loss finding by EPA under strict adherence to the current approach. Other crops and cases may have very little variation in historical net revenues, which could lead to a small economic loss being found significant under the current approach. Again, the proposed approach is designed so that it would not cause a significant change in the overall likelihood of a significant economic loss finding, but it may change the findings in individual cases so that determinations of significance are more accurate, appropriate and equitable.

Current regulations list certain information that must be included, as appropriate, in an application for a specific exemption: 40 CFR 166.20(b) Information required for a specific exemption. An application for a specific exemption shall provide all of the following information, as appropriate, concerning the nature of the emergency:

(4) A discussion of the anticipated significant economic loss, together with data and other information supporting the discussion, which addresses all of the following:

(i) Historical net and gross revenues for the site;

(ii) The estimated net and gross revenues for the site without the use of the proposed pesticide; and

(iii) The estimated net and gross revenues for the site with use of the proposed pesticide.

The existing regulations state that all of the above information must be included "as appropriate." EPA recognizes that each pest emergency has individual characteristics, and exercises judgement based on experience, in determining what information is appropriate. For example, under the current approach, the Agency typically considers 5 years of annual data on historical net and gross revenues to be appropriate, and has suggested in guidance materials that applicants submit revenue data for the preceding 5 years. However, in some cases, such as a very minor or new crop for which less data are available, the Agency may rely on other credible information. Further, EPA does not compare the emergency situation to the situation with the proposed pesticide, but to the situation without the emergency. Therefore, EPA believes that the proposed approach would allow applicants to focus their applications on the most "appropriate" information for determining whether or not a significant economic loss will occur.

Because the analysis of past exemption requests, on which the proposed approach is based, demonstrates that the likelihood of approval of some requests is not significantly changed by the loss-based approach, EPA believes that the current requirement of those additional data in those cases can be improved. However, even when annual historical data are not required, applicants would sometimes continue to utilize historical data under the proposed approach, albeit in a different way. This is because each tier requires a quantitative threshold to be met, that is a certain percentage of a baseline of either crop yield, gross revenues, or net revenues. The best approach to determine the baseline in some cases may be to use the average of historical data, including yield and price data.

VI. Proposed Minor Updates and Revisions

A. Specifying Invasive Species as Targets under Quarantine Exemptions

Current regulations describe four types of exemptions, one of which is a quarantine exemption. The purpose of a quarantine exemption is stated in the regulations as follows:

40 CFR 166.2(b) Quarantine exemption

A quarantine exemption may be authorized in an emergency condition to control the introduction or spread of any pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories.

Quarantine exemptions are not directly for the purpose of, or approved on the basis of, averting a significant economic loss, although they may ultimately help prevent large economic losses. In addition to being for the control of pests that are not widely prevalent or distributed in the U.S., quarantine exemptions are intended to control recently-introduced, non-native species. In recent years such species have come to be commonly known as "invasive species." Because of the potentially widespread and devastating impacts of invasive species to ecosystems, the environment, and the economy, the challenge of preventing their introduction, and when necessary controlling them, has garnered increasing attention in recent years. Although invasive species implicitly fall within the scope of quarantine exemptions, the now widely-recognized term does not appear in the regulations, probably because it was not widely used at the time 40 CFR part 166 was promulgated. EPA is proposing to add the term "invasive species" to 40 CFR 166.2(b) and to 166.3(d)(3)(i), to clarify that the intent of making quarantine exemptions available includes the control of invasive species. EPA also proposes to add, at 40 CFR 166.3(k), a definition of "invasive species" that is derived from that used in Executive Order 13112 (64 FR 6183, February 3, 1999).

B. Updating Administrative and Communication Processes

A number of minor revisions to 40 CFR part 166 are being proposed to correct errors or update administrative aspects of the emergency exemption regulations, particularly in light of the fact that FQPA was enacted since the regulations under part 166 were last revised. Each of these revisions is being proposed for one of the following reasons: (1) To correct typographical or administrative errors or inaccuracies, (2) to bring the regulations into agreement with current requirements put in place by the FQPA, or (3) to reflect improvements to the process that have been identified since 40 CFR part 166 was last revised, and that have been voluntarily practiced by applicants. Each of these revisions would be non-substantive or reflect minor changes to

the regulatory requirements, but all would correct, improve, or update the regulations. The corrections of typographical or administrative errors or inaccuracies are self-explanatory. The proposed revisions for the other reasons are discussed below.

Under FFDCA section 408(l)(6), as amended by FQPA, EPA is required to establish time-limited tolerances, or exemptions from the requirement of a tolerance, for pesticide residues in food or feed resulting from uses under emergency exemptions. The current regulations predate FQPA and therefore do not reflect this requirement. Four revisions are being proposed to bring 40 CFR part 166 into agreement with current practices as required by the FFDCA. Inasmuch as section 408(l)(6) applies to all food-use emergency exemptions, regardless of whether its requirements are reflected in 40 CFR part 166, these proposed changes to 40 CFR part 166 do not substantively change the applicable law. For ease of discussion, below, "tolerance" is used to refer to a tolerance or exemption from the requirement of a tolerance.

First, EPA proposes to amend 40 CFR 166.3(e) to revise the definition of "first food use," which reads "The term *first food use* refers to the use of a pesticide on a food or in a manner which otherwise would be expected to result in residues in a food, if no permanent tolerance, exemption from the requirement of a tolerance, or food additive regulation for residues of the pesticide on any food has been established for the pesticide under section 408(d) or (e) or 409 of the Federal Food, Drug, and Cosmetic Act." EPA is proposing to change this definition by removing the word "permanent," so that the establishment of any tolerance, including a time-limited tolerance, would be considered when determining whether a use was the first food use, and by removing the reference to "food additive regulation," because, owing to the FQPA amendments, EPA no longer issues food additive regulations.

Second, under 40 CFR 166.25, *Agency review*, the regulations state that the review enables EPA to make a determination with respect to several items, including in 40 CFR 166.25(a)(2) the level of residues in or on all food resulting from the proposed use. The proposed revision would add to this list the establishment of a time-limited tolerance for such residues, where necessary.

The third proposed revision made necessary by FQPA is to add, under 40 CFR 166.40, an additional limitation to the authority of a State to issue a crisis exemption, namely, that a State may issue a crisis exemption for a food use only where a tolerance or exemption is already in effect, or where EPA has provided verbal confirmation that a time-limited tolerance for the proposed use can be established in a timely manner. It is in the best interests of applicants and potential users of the pesticide under the crisis exemption that there is some assurance that an exemption can be established in a timely manner before use of the pesticide begins. EPA also proposes that all crisis exemptions be conditioned upon EPA confirming that it has no other risk-based objection to the use of the pesticide under the crisis provisions.

The fourth proposed change, which arises because EPA now establishes formal tolerances under FQPA, is to remove the requirement under 40 CFR 166.30(b) and 40 CFR 166.47 to directly notify the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and the State health officials. The purpose of this requirement was to notify these agencies of levels of pesticides that may occur in food and feed items as a result of an emergency exemption use. However, with the requirement that time-limited tolerances be established in accordance with FFDCA section 408(l)(6), such levels are published in the **Federal Register**, as well as the 40 CFR part 180, and detailed background is given regarding safety of these tolerances. Therefore, notifying the other regulatory organizations (FDA, USDA, and State health officials) on an individual basis is considered redundant to the **Federal Register** notice and incorporation of the regulatory decision in the appropriate section of 40 CFR part 180.

Several proposed revisions are to codify minor improvements to the process that have been identified since the current regulations became effective. Applicants have been generally following these practices, in most cases for several years, and EPA believes that the public will generally agree that these are improvements to the regulatory requirements. First, under 40 CFR 166.20, *Application for a specific, quarantine, or public health exemption*, EPA is proposing to revise 40 CFR 166.20(a)(2)(i)(A) so that an application must include a copy of the registered label(s) if a specific pesticide product(s) is/are requested, instead of the current requirement to include the registration number and name of the product. This is practical because emergency exemption requests are generally for pesticide products that are already registered for other uses, but not for the requested use.

Next, under 40 CFR 166.20(a)(3), EPA is proposing to add a new item and revise several of the others, to specify that the conditions of use in an application must state the maximum number of applications, the period of time for which the use is proposed, and to specify the earliest possible harvest dates of the treated crop. Such information is clearly necessary for both risk assessment and tolerance setting, and in those rare occasions where it is not apparent from the application, EPA must contact the applicant to obtain the information. Expressly requiring this information in 40 CFR 166.20(a)(3) would expedite review of applications and allow tolerances to be established in a timely fashion.

Additionally, EPA is proposing that 40 CFR 166.20(a)(9) be revised to specify that in addition to the registrant or manufacturer being notified of the application submission, the application must also include a statement of support from the registrant or manufacturer, and the expectation that supplies of the requested material will be adequate to meet the needs under the proposed emergency use.

The existing regulations establish a measure of whether adequate progress toward the registration of a requested use is being made. Existing regulations suggest that the lack of a request for registration, within 3 years of an emergency exemption first being requested for the use, suggests that adequate progress is not being made. EPA proposes to revise 40 CFR 166.24(a)(6)(i) and 40 CFR 166.25(b)(2)(ii) to relax this presumption for repeat emergency exemption applications for uses being supported by the Interregional Research Project No. 4 (IR-4). The IR-4 program is a cooperative effort of the state land grant universities, USDA and EPA, to address the chronic shortage of pest control options for minor crops. Generally, the crop protection industry lacks economic incentive to pursue registrations on minor crops because of low acreage. IR-4 generates and supplies research data needed by EPA in order to register compounds for use on minor crops. Owing to the limited pest control options available for minor use crops, the significance of the need evidenced by IR-4 action, and the limits on IR-4 resources, EPA believes that a somewhat slower rate of progress towards registration should be accepted for emergency exemptions for uses being supported by the IR-4 program. Accordingly, EPA is proposing that 40 CFR 166.24(a)(6)(i) and 40 CFR

166.25(b)(2)(ii) be revised so that the presumption against adequate progress toward registration of repeat emergency exemptions for uses being supported by the IR-4 program would begin after 5 years, 2 years more than allowed for uses supported by the registrant. For such major crop uses, the 3–year presumption in the current regulations would remain in effect.

EPA is proposing that 40 CFR 166.30(a)(1) be revised to reflect that EPA will not process incomplete applications, and that action on such submissions will be halted until required additional information is submitted.

EPA is proposing to clarify 40 CFR 166.32(b) to ensure that applicants submit interim use reports for exemptions if requesting a repeated emergency exemption prior to the due date of the final report.

EPA proposes clarifying the authority of an applicant to issue a crisis exemption by specifying in 40 CFR 166.40(a) that crisis exemptions are to be used only for unpredictable emergency conditions. This proposed change is strictly for purposes of clarification, as the term "unpredictable" already appears in the introductory language of 40 CFR 166.40, and does not represent any intention by EPA to change the circumstances that are acceptable for crisis exemptions.

EPA is proposing that 40 CFR 166.43(a)(1) be revised to improve the notification process for crisis exemptions, reflect the standard practice of the state agencies, and provide for advance notice so that EPA may make a determination of whether a tolerance may be supported in accordance with FFDCA section 408 requirements. EPA is proposing that 40 CFR 166.43(a)(1) be revised to require advance notification for crisis exemptions by applicants. The state's authority to exercise the crisis exemption would be stayed for up to 36 hours pending verbal confirmation by EPA that a tolerance can be established in a timely manner and that the Agency has no other risk-based objections. This would replace the currently ambiguous requirement that notification must be made at least 36 hours in advance, or no later than 24 hours after the decision of a State to avail itself of a crisis exemption. Notification after the crisis has been declared does not allow EPA to evaluate whether a crisis use can be supported with a section 408 safety finding, or whether other potential risks are unacceptable, before use of the pesticide begins. In any case, EPA would continue to provide the necessary verbal confirmations as quickly as possible, thereby often allowing use of the crisis exemption in less than 36 hours. The Agency recognizes that speed is important for all crisis exemptions, and that certain situations may be particularly urgent, including, but not necessarily limited to, national security threats and some requests under USDA's Animal and Plant Health Inspection Service quarantine program.

To clarify necessary information for a crisis exemption, EPA is proposing that 40 CFR 166.43(b)(1) and (b)(4), be revised to specify submission of the registered label(s) for the pesticide product(s) proposed for crisis use, as well as proposed use directions specific to the crisis use, and the timeframe for anticipated use, including end date.

To bring the reporting requirements for crisis exemption requests into agreement with those for specific, quarantine, and public health exemption requests, EPA is proposing that 40 CFR 166.49(a)(1) through (a)(4) be revised and 40 CFR 166.49(a)(5) deleted, to clarify information requirements, such as applicant, product used, site treated, and contact information.

VII. EPA Plans for Resistance Management and Endangered Species Considerations

A. Revised Plans for Addressing Resistance Management

The EPA-USDA Committee to Advise on Reassessment and Transition (CARAT) is a diverse group of stakeholders formed to make recommendations to EPA and USDA regarding strategic approaches for pest management planning, transition to safer pesticides for agriculture, and tolerance reassessment for pesticides. In October 2003, CARAT provided draft recommendations, including one that "EPA and USDA need to recognize that any transition program has to consider efficacy, economics, resistance management, and impact on non-targets." EPA agrees with the CARAT on the importance of resistance management and is exploring how to use its regulatory and non-regulatory initiatives to support and facilitate effective resistance management.

Although the April 2003 **Federal Register** Notice indicated that EPA was considering addressing resistance management in this proposed rule, EPA now plans to pursue opportunities to address pest resistance management as it implements the Pesticide Registration Improvement Act (PRIA) enacted January 23, 2004. This Act requires the Agency to establish a registration service fee system for applications for pesticide registration and amended registration. Under this new system, fees will be charged for new applications for registration received on or after the effective date of the statute (March 23, 2004) and EPA is required to make a decision on the application within prescribed decision timeframes. Under PRIA, EPA will eliminate its backlog of registration actions and make more timely decisions. This will accelerate the registration of many products that will be beneficial to resistance management, including reduced risk products. EPA's reduced risk process considers resistance management as an important factor. New products that would address significant resistance management needs would reach the market sooner, thereby providing a strong incentive to registrants to incorporate resistance management in their registration submissions.

In addition, EPA will continue to promote the implementation of its voluntary resistance management labeling guidelines based on rotation of mode of action described in Pesticide Registration Notice 2001-5 (PR Notice 2001-5). These guidelines are part of a North American Free Trade Agreement (NAFTA) effort to harmonize resistance management guidelines. The Agency supports incorporating resistance management considerations into pesticide labeling (i.e., PR Notice 2001-5), resistance management education programs, crop management and stewardship programs, and outreach efforts with stakeholders. EPA will continue working with stakeholder groups on sustainable resistance management strategies that protect human health and the environment including the various Resistance Action Committees (RACs), registrants, consultants, academia, USDA, States, and public interest groups.

B. Protections for Endangered Species

Like all federal agencies, EPA must comply with the requirements of the Endangered Species Act (ESA), which requires that an agency ensure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (jointly referred to as "the Services"), that its actions are not likely to jeopardize the continued existence of threatened or endangered (listed) species or destroy or adversely modify their critical habitat. This requirement applies, among others, to EPA actions approving emergency exemptions under FIFRA section 18. Under current ESA consultation regulations, an agency must consult with FWS and NMFS if an

action "may affect" a listed species or its critical habitat.

FWS and NMFS, in collaboration with EPA and USDA, have developed a counterpart regulation (69 FR 48115, August 6, 2004), that would make the process of consultation about EPA actions involving pesticides more efficient, effective, and timely, thereby strengthening the protections for endangered and threatened species. As part of the work supporting the counterpart rule, the Services and EPA reviewed the Agency's approach to the assessment of potential risks to listed species resulting from pesticide use. A January 26, 2004, letter from the Services to EPA includes a quote stating that EPA's approach to ecological risk assessment "will produce effects determinations that reliably assess the effects of pesticides on . . . listed species and critical habitat pursuant to the ESA and implementing regulations." That letter is in the public docket for this proposed rule, and interested parties may access it by following the instructions under **ADDRESSES**.

As a result of the Services' review of the Agency's ecological risk assessment methodology, EPA intends to look more closely at potential risks of pesticide use in connection with decisions on requests for emergency exemptions. EPA currently requires, under 40 CFR 166.20(a)(7), information to be included in applications for emergency exemption that addresses potential risks of the requested use to endangered and threatened species. Although EPA, under existing requirements, routinely considers the impacts of emergency exemptions on endangered and threatened species, the Agency seeks to improve the guidance it gives to applicants concerning data on endangered and threatened species. EPA will need to rely on States and federal agencies to supply information as part of their requests for emergency exemptions that will enable EPA to assess the potential impacts on listed species and critical habitat of pesticide use under the proposed exemption. EPA also plans to work with the Association of American Pest Control Officials (AAPCO) and with individual States, as the primary applicants for emergency exemptions, to improve the quality of their submissions as they try to frame the potential impact of a requested pesticide use on endangered and threatened species. EPA believes these measures fall within existing requirements but should increase the availability of essential information needed to make a timely and substantive determination of the potential impact to endangered and threatened species. EPA also plans through its reevaluation, to refocus and possibly increase consideration of these impacts in its decision process for exemption requests, including any need to consult with USFWS and NMFS.

VIII. FIFRA Review Requirements

In accordance with FIFRA section 25(a), this proposed rule was submitted to the FIFRA Science Advisory Panel (SAP), the Secretary of Agriculture (USDA), and appropriate Congressional Committees. The SAP has waived its review of this proposed rule, and no comments were received from any of the Congressional Committees or USDA.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866

Pursuant to Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has designated this proposed rule as a "significant regulatory action" under section 3(f) of the Executive Order because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This action was therefore submitted to OMB for review under this Executive Order, and any changes to this document made at the suggestion of OMB have been documented in the public docket for this rulemaking.

In addition, EPA has prepared an economic analysis of the potential regulatory impacts of this proposed action on those affected, which is contained in a document entitled *Economic Analysis of the Proposed Pesticides Emergency Exemption Process Revisions*. A copy of this Economic Analysis is available in the public docket for this action and is briefly summarized here.

EPA is considering these improvements in an effort to reduce the burden to both the applicants and EPA, and to allow for quicker decisions by the Agency, while maintaining health and safety requirements. As such, this proposed action is not expected to cause any significant adverse economic impacts if implemented as proposed. This proposed action would only potentially affect Federal, State, or Territorial government agencies that can petition EPA for an emergency use authorization under FIFRA section 18. It would therefore have no direct impacts on local governments, small entities, pesticide producers or on government entities that may be registrants of pesticide products, and would have no direct impacts on any other sector of the economy.

The only significant impacts expected would be burden reductions to States and Federal agencies in the application process for emergency exemptions, and to EPA in the review process, as well as quicker responses to emergency conditions. As detailed in the economic analysis prepared for this proposed rule, based on predicted future applications affected by the proposed revisions, EPA estimates the annual combined savings for applicants and EPA of around $0.94 million, a little over $0.6 million from re-certification, and about $0.33 million from changing to the loss-based method of determining significant economic loss.

B. Paperwork Reduction Act

This action does not impose any new information collection burden that would require additional approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* This proposed rule is expected to reduce the existing burden that is approved under OMB Control No. 2070–0032 (EPA ICR No. 596), which covers the information collection activities contained in the existing regulations at 40 CFR part 166, and under the pilot program announced April 23, 2003 (68 FR 20145). A copy of the OMB approved Information Collection Request (ICR) has been placed in the public docket for this rulemaking, and the Agency's estimated burden reduction is presented in the economic analysis that has been prepared for this proposed rule.

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to an information collection request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR, after appearing in the preamble of the final rule, are listed in

40 CFR part 9 and included on any related collection instrument (e.g., form or survey).

Submit any comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, along with your comments on the proposed rule. The Agency will consider any comments related to the information collection requirements contained in this proposed rule as it develops a final rule. Any changes to the burden estimate for the ICR will be effectuated with the final rule.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Agency hereby certifies that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities. This action will only directly impact State and Federal agencies, neither of which qualify as a small entity under the RFA. This proposed rule does not have any direct adverse impacts on small businesses, small non-profit organizations, or small local governments. Section 18 only applies to Federal and State governments.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. This proposed rule only applies to Federal and State government agencies, the only entities that can petition the EPA under FIFRA section 18. As described in Unit IX.A., this proposed rule is expected to result in an overall reduction of existing costs for applicants and EPA of around $0.94 million. As such, this action will not impact local or tribal governments or the private sector, and will not significantly or uniquely affect small governments. Accordingly, this rule is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), EPA has determined that this proposed rule does not have "federalism implications," because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. As indicated above, this proposed rule is expected to reduce burden on Federal and State government agencies that petition EPA under FIFRA section 18, and on EPA in processing the applications. Thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of the Order, and consistent with EPA policy to promote communications between the Agency and State governments, EPA has specifically solicited comment from State officials.

F. Executive Order 13175

As required by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), EPA has determined that this proposed rule does not have tribal implications because it will not have any affect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. As indicated above, this proposed rule only applies to State and Federal government agencies. FIFRA section 18 does not apply to tribal governments. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not designated as an "economically significant" regulatory action as defined by Executive Order 12866 (see Unit XI.A.), nor is it likely to have any significant adverse effect on the supply, distribution, or use of energy.

H. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) does not apply to this proposed rule because this action is not designated as an "economically significant" regulatory action as defined by Executive Order 12866 (see Unit XI.A.), nor does it establish an environmental standard, or otherwise have a disproportionate effect on children.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, and sampling procedures) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not impose any technical standards that would require EPA to consider any voluntary consensus standards.

J. Executive Order 12898

This proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency has not considered environmental justice-related issues.

List of Subjects in 40 CFR Part 166

Environmental protection, Emergency exemptions, Pesticides and pests.

Dated: August 25, 2004.

Michael O. Leavitt,

Administrator.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 166—[AMENDED]

1. The authority citation for part 166 would continue to read as follows:

Authority: 7 U.S.C. 136–136y.

2. Section 166.2 is amended by revising paragraph (b) to read as follows:

§ 166.2 Types of exemptions.

* * * * *

(b) *Quarantine exemption.* A quarantine exemption may be authorized in an emergency condition to control the introduction or spread of any pest that is an invasive species, or is otherwise new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories.

* * * * *

3. Section 166.3 is amended by revising paragraphs (a), (d)(3)(i), (e), (h), and adding paragraphs (k) and (l) to read as follows:

§ 166.3 Definitions.

* * * * *

(a) The term *the Act* means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*

* * * * *

(d) * * *

(3) * * *

(i) Involves the introduction or dissemination of an invasive species or a pest new to or not theretofore known to be widely prevalent or distributed within or throughout the United States and its territories; or

* * * * *

(e) The term *first food use* refers to the use of a pesticide on a food or in a manner which otherwise would be expected to result in residues in a food, if no tolerance or exemption from the requirement of a tolerance for residues of the pesticide on any food has been established for the pesticide under section 408(b)(2) and (c)(2) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

(h) The term *significant economic loss* means that, compared to the situation without the pest emergency and despite the best efforts of the affected persons, the emergency conditions at the specific use site identified in the application are reasonably expected to cause losses meeting any of the following criteria:

(1) For pest activity that primarily affects the current crop, one or more of the following:

(i) Crop yield loss greater than or equal to 20%;

(ii) Economic loss, including revenue losses and cost increases, greater than or equal to 20% of gross revenues;

(iii) Economic loss, including revenue losses and cost increases, greater than or equal to 50% of net revenues;

(2) For all other pest activity, substantial loss or impairment of capital assets, or a loss that would affect the long-term financial viability expected from the productive activity.

* * * * *

(k) The term *invasive species* means, with respect to a particular ecosystem, any species that is not native to that ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health.

(l) The term *IR-4 program* refers to the Interregional Research Project No. 4, which is a cooperative effort of the state land grant universities, the U.S. Department of Agriculture (USDA) and EPA, to address the chronic shortage of pest control options for minor crops, which are generally of too small an acreage to provide economic incentive for registration by the crop protection industry.

4. Section 166.20 is amended by revising paragraphs (a)(2)(i)(A), (a)(3), (a)(9), (b)(4), and adding paragraph (b)(5) to read as follows:

§ 166.20 Application for a specific, quarantine, or public health exemption.

(a) * * *

(2) * * *

(i) * * *

(A) A copy of the label(s) if a specific product(s) is/are requested; or the formulation(s) requested if a specific product is not desired; and

* * * * *

(3) *Desciption of the proposed use.* The application shall identify all of the following:

(i) Sites to be treated, including their locations within the State;

(ii) The method of application;

(iii) The rate of application in terms of active ingredient and product;

(iv) The maximum number of applications;

(v) The total acreage or other appropriate unit proposed to be treated;

(vi) The total amount of pesticide proposed to be used in terms of both active ingredient and product;

(vii) All applicable restrictions and requirements concerning the proposed use which may not appear on labeling;

(viii) The duration of the proposed use; and

(ix) Earliest possible harvest dates.

* * * * *

(9) *Acknowledgment by registrant.* The application shall contain a statement by the registrants of all pesticide products proposed for use acknowledging that a request has been made to the Agency for use of the pesticide under this section. This acknowledgment shall include a statement of support for the requested use, including the expected availability of adequate quantities of the requested product under the use scenario proposed by the applicant(s); and the status of the registration in regard to the requested use including appropriate petition numbers, or of the registrant's intentions regarding the registration of the use.

* * * * *

(b) * * *

(4) A discussion of the anticipated significant economic loss, together with data and other information supporting the discussion, that addresses one or more of the following, as appropriate:

(i) Crop yield or utilized yield reasonably anticipated in the absence of the emergency and expected losses in quantity due to the emergency;

(ii) The information in paragraph (b)(4)(i) of this section plus prices reasonably anticipated in the absence of the emergency and changes in prices and/or production costs due to the emergency;

(iii) The information in paragraph (b)(4)(ii) of this section plus operating costs reasonably anticipated in the absence of the emergency;

(iv) Any other information explaining the economic consequences of the emergency.

(5) *Re-certification of an emergency condition.* Applicants for specific exemptions for which the emergency condition could reasonably be expected to continue for longer than 1 year, and for which the exemption was granted for the same pesticide at the same site to the same applicant the previous year, but no more than twice, may submit less information by basing such application on previously submitted information. For applications for such exemptions, except for applications subject to public notice pursuant to § 166.24(a)(1) through (a)(5), the information requirements of paragraphs (a)(1) through (a)(10) of this section, and of paragraphs (b)(1) through (b)(4) of this section, shall not apply where the applicant certifies that all of the following are true:

(i) The emergency condition described in the preceding year's application continues to exist;

(ii) Except as expressly identified, all information submitted in the preceding year's application is still accurate;

(iii) Except as expressly identified, the proposed conditions of use are identical to the conditions of use EPA approved for the preceding year;

(iv) Any conditions or limitations on the eligibility for re-certification identified in the preceding year's notice of approval of the emergency exemption have been satisfied.

* * * * *

5. Section 166.24 is amended by revising the introductory text of paragraph (a) and (a)(6)(i) to read as follows:

§ 166.24 Public notice of receipt of application and opportunity for public comment.

(a) *Publication requirement.* The Administrator shall issue a notice of receipt in the **Federal Register** for a specific, quarantine, or public health exemption and request public comment when any one of the following criteria is met:

* * * * *

(6) * * *

(i) An emergency exemption has been requested or approved for that use in

any 3 previous years, or any 5 previous years if the use is supported by the IR-4 program, and

* * * * *

6. Section 166.25 is amended by revising paragraphs (a)(2), (a)(4), and (b)(2)(ii) to read as follows:

§ 166.25 Agency review.

(a) * * *

(2) The Agency's ability and intention to establish a time-limited tolerance(s) or exemption(s) from the requirement of a tolerance for any pesticide residues resulting from the authorized use, identifying the level of permissible residues in or on food or feed resulting from the proposed use;

* * * * *

(4) The potential risks to human health, endangered or threatened species, beneficial organisms, and the environment from the proposed use.

(b) * * *

(2) * * *

(ii) The progress which has been made toward registration of the proposed use, if a repeated specific or public health exemption is sought. It shall be presumed that if a complete application for registration of a use, which has been under a specific or public health exemption for any 3 previous years, or any 5 previous years if the use is supported for registration by the IR-4 program, has not been submitted, reasonable progress towards registration has not been made.

7. Section 166.30 is amended by revising paragraph (a)(1), removing paragraph (b), and redesignating existing paragraph (c) as paragraph (b).

§ 166.30 Notice of Agency decision.

(a) * * *

(1) *Incomplete applications.* The Agency may discontinue the processing of any application that does not address all of the requirements of § 166.20 until such time the additional information is submitted by the applicant.

* * * * *

8. Section 166.32 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 166.32 Reporting and recordkeeping requirements for specific, quarantine, and public health exemptions.

* * * * *

(b) *Interim and final reports.* A final report summarizing the results of pesticide use under any specific, quarantine, or public health exemption must be submitted to the Agency within 6 months from the expiration of the exemption unless otherwise specified by the Agency. For quarantine exemptions granted for longer than 1 year, interim reports must be submitted annually. When an application for renewal of the exemption is submitted before the expiration of the exemption or before submission of the final report, an interim report must be submitted with the application. The information in interim and final reports shall include all of the following:

* * * * *

9. Section 166.40 is amended by revising paragraph (a), removing the period at the end of paragraph (b) and adding a semi-colon and the word "and" at the end of paragraph (b), and adding paragraph (c) to read as follows:

§ 166.40 Authorization.

* * * * *

(a) An unpredictable emergency condition exists;

* * * * *

(c) EPA has provided verbal confirmation that, for food uses, a tolerance or exemption from the requirement of a tolerance can be established in a timely manner, responsive to the projected timeframe of use of the chemical and harvest of the commodity, and that, for any use, the Agency has no other risk-based objection.

10. Section 166.43 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 166.43 Notice to EPA and registrants or basic manufacturers.

(a) * * * (1) The State or Federal Agency issuing the crisis exemption must notify the Administrator, and receive verbal confirmation from EPA required in § 166.40(c), in advance of utilization of the crisis provisions. EPA will attempt to provide such confirmation as quickly as possible, but shall notify the applicant of its determination within 36 hours.

* * * * *

(b) *Contents of notice.* Information required to be provided in notices shall include all of the following:

(1) The name of the product and active ingredient authorized for use, along with the common name and CAS number if available, including a copy of the EPA registered label and use directions appropriate to the authorized use;

(2) The site on which the pesticide is to be used or is being used;

(3) The use pattern;

(4) The date on which the pesticide use is to begin and the date when the use will end;

(5) An estimate of the level of residues of the pesticide expected to result from use under the crisis exemption;

(6) Earliest anticipated harvest date of the treated commodity;

(7) Description of the emergency situation; and

(8) Any other pertinent information available at the time.

§ 166.47—[Removed]

11. Section 166.47 is removed.

12. Section 166.49 is amended by revising paragraph (a) to read as follows:

§166.49 Public notice of crisis exemptions.

(a) *Periodic notices.* At least quarterly, the Administrator shall issue a notice in the **Federal Register** announcing issuance of crisis exemptions. The notice shall contain all of the following:

(1) The name of the applicant;

(2) The pesticide authorized for use;

(3) The crop or site to be treated; and

(4) The name, address, and telephone number of a person in the Agency who can provide further information.

* * * * *

[FR Doc. 04–20038 Filed 9–2–04; 8:45 am]
BILLING CODE 6560–50–S

Notices

Federal Register
Vol. 69, No. 171
Friday, September 3, 2004

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

Commodity Credit Corporation

Notice of Funds Availability: Tebuthiuron Application Losses—Additional Assistance for Producers in New Mexico

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) is issuing this notice to inform interested parties that additional payments are available under the 2003 New Mexico Tebuthiuron Program (NMTP). The Agricultural Assistance Act of 2003 (the 2003 Act) required the Secretary to reimburse certain agricultural producers on farms in New Mexico for losses claimed in relation to the application by the Federal Government of the herbicide Tebuthiuron on land on or near the farms of the producers during July 2002. A Notice was published on July 8, 2003 announcing the terms of the program (68 FR 40619). This notice is to inform producers that remaining funds from this program are available to those producers who suffered crops losses in 2004 from the lingering residue of Tebuthiuron.

DATES: The Farm Service Agency (FSA) will accept applications from September 3, 2004, through October 4, 2004.

FOR FURTHER INFORMATION CONTACT: Eloise Taylor, Chief, Compliance Branch, FSA/PECD, 1400 Independence Ave., SW., Washington, DC 20250–0517, (202) 720–9882, or e-mail at: Eloise_Taylor@wdc.usda.gov. Persons with disabilities who require alternative means of communication (Braille, large print, audiotape, *etc.*) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Section 217 of the 2003 Act (Pub. L. 108–7) requires that this program be administered without regard to 44 U.S.C. 35, the Paperwork Reduction Act (PRA) and exempts this action from notice and comment requirements that might otherwise apply. This means the information to be collected from the public to implement this program and the burden, in time and money, the collection of the information would have on the public does not need to be approved by the Office of Management and Budget nor is it subject to the 60-day public comment period required by the PRA.

Background

This notice provides NMTP terms and conditions and informs affected parties that they may be eligible for additional benefits. Section 210 of the 2003 Act, as amended by Public Law 108–11, provides that the Secretary shall use not more than $1,650,000 of Commodity Credit Corporation funds to reimburse agricultural producers on farms located in the vicinity of Malaga, New Mexico, for all losses to crops and related expenses incurred as the result of the application by the Federal Government of Tebuthiuron on land on or near the farms of the producers during July 2002. An amount of $414,614 remains. The agency will disburse this remaining amount to eligible producers that suffered losses from Tebuthiuron during the 2004 crop year.

Tebuthiuron is a commercially available herbicide that is used to control broadleaf weeds, grasses, and brush. It can be toxic to many plants and can kill trees, shrubs and other desirable plants with roots extending into treated areas.

Tebuthiuron has been used in the past by Federal agencies, such as the Forest Service and Natural Resources Conservation Service (NRCS) of USDA, and the Bureau of Land Management (BLM) of the Department of Interior, in drug crop eradication efforts and to control brush and weeds on public lands. Producers have claimed that Tebuthiuron use by the Federal Government and by a private landowner on July 8, 10, and 12, 2002, caused water drawn from the Black River to be tainted, causing losses to crops and livestock in the vicinity of Malaga, New Mexico. The 2003 Act provided funds to address those claims. The program is limited to farmers in that area and for their losses and related expenses due to the July, 2002, applications. No other claims will be allowed. Allowance of claims is not intended to be, and is not, an admission of fact or liability on the part of anyone, but is intended to carry out the program as required by the 2003 Act, based on the claims of the producers and the assessment of New Mexico State University (NMSU), which will help collect and assess the information. Assistance will be provided to affected producers in proportion to the losses incurred. No claims will be paid except upon the making of a proper application during the application period as announced in this notice. All claims are subject to the availability of funds. Funding is limited to the $414,614, which are the funds remaining from the 2003 Act. Each producer must file a claim on a form developed by FSA and provide supporting documentation for 2004 losses. Losses must have occurred prior to the filing of the application. They must not have been previously compensated under this program. Applications must be submitted by the program application deadline, which will be 30 days after the publication of this notice in the **Federal Register**, unless extended. Once the money is expended, all other claims must be rejected. The final determinations in this matter will be made by the FSA Deputy Administrator for Farm Programs (Deputy Administrator). Should funds still remain after this new round is completed, producers who file in this round may, in the period September 1–10, 2005, petition the Deputy Administrator for additional payments.

New Mexico Tebuthiuron Program

I. How To Apply

(A) Producers must submit the following to FSA:

(1) Application for benefits;

(2) Certification from a qualified crop consultant or New Mexico Department of Agriculture soil test, that supports the producer's contention that the acreage claimed to have been damaged was caused by the July, 2002, Tebuthiuron applications; and

(3) Verifiable or reliable production records for 2004 for the crop and farm, including, as applicable, commercial

receipts, settlement sheets, warehouse ledgers, load summaries, or appraisal information from a loss adjuster acceptable to CCC. In the absence of such records, CCC may assign production.

(4) Records for any production of a crop that is grown with an arrangement or contract for guaranteed payment. Failure to report any applicable guaranteed contract or similar agreement shall be considered as providing false information to CCC, will render producers ineligible for NMTP payments, and may lead to other civil or criminal sanctions.

(5) For applicable prevented planting claims for 2004, a certification by a qualified crop consultant that supports the producer's claim that a crop could not be taken to maturity because of the presence of Tebuthiuron. Prevented planted acreage shall be limited to the acres of the crop planted in 2002. Late-filed acreage reports can be submitted according to 7 CFR 1480.16.

(6) Other information needed to verify the amount of the claim, including but not limited to information relating to acres planted, actual yields, actual production history, replanting expenses, legal fees, livestock records and associated matters as determined necessary by CCC or as offered by the producer in support of the claim.

II. References and Payment Limitations

(A) "Deputy Administrator" in this notice means the Farm Service Agency (FSA) Deputy Administrator for Farm Programs.

(B) Funding for the program is limited to $414,614. In the event that amount is insufficient to pay all approved claims, CCC will reduce payments of all eligible and timely submitted claims on a pro rata basis or other method deemed appropriate by CCC.

(C) Total NMTP payments are not subject to a per person payment limitation as defined in 7 CFR part 1400.

(D) NMTP payments shall be made without regard to crop liens or title under State law, but may be assigned.

III. Who Is Eligible

Eligible producers for NMTP payments are agricultural producers in the State of New Mexico who suffered an eligible loss in 2004 claimed in good faith to be a result of residue of the herbicide Tebuthiuron in the Black River watershed in July 2002 in the vicinity of Malaga, New Mexico. An eligible loss will be a loss that meets all the criteria in section IV of this notice, plus those set out elsewhere in this notice, and those contained in the program application or otherwise imposed by the Deputy Administrator.

IV. Eligibility Determinations

Eligibility determinations will be made by the Deputy Administrator upon receipt of all of the necessary data and the report of eligible claims timely submitted. Subject to the continued availability of funds, eligible losses are only those (1) claimed as a direct result from the Federal Government's use of Tebuthiuron in the vicinity of Malaga, New Mexico; (2) incurred before the filing of the producer's application; and (3) not previously paid under the NMTP program provided for in the **Federal Register** notice published July 8, 2003. All three criteria must also be met. All other applicable criteria must also be met. Payments are subject to the availability of funds. Claims are subject to proration if the claims of all applicants filing in the 2004 application period set out in this notice exceed the remaining available funding ($414,614) provided in this notice or any other level as restricted by law. Proration shall be on the basis described elsewhere in this notice. The Deputy Administrator shall determine the level of proof needed to substantiate a claim for purposes of payment.

V. Payment Calculations

Subject to all the other conditions of this notice or conditions of the application, and subject to the availability of funds and proration, payment shall only be made to eligible producers for eligible losses and, to the extent practicable, shall be calculated in the following manner:

(A) NMTP payments for crop losses shall be based on the producer's share of the crop lost, or, if no crop was produced, the share the producer would have received if the crop had been produced. When calculating a payment for a unit loss:

(1) An unharvested payment factor shall be applied to the crop acreage planted but not harvested;

(2) A prevented planting factor shall be applied to any prevented planted acreage eligible for payment; and

(B) NMTP payments for lost crops will be calculated using the "county expected yield", as established by the Deputy Administrator, which will be the Olympic average (disregard the high and low yields) yield for base period 1999–2003. In lieu of county expected yields, as determined acceptable by the Deputy Administrator, payment may be based on the use of "approved yields" using provisions similar to those for developing an "actual production history" (APH) for producers under the provisions of the Noninsured Crop Disaster Assistance Program at 7 CFR 1437, subpart B. Verifiable or reliable production evidence acceptable to the Deputy Administrator may be used to establish the farms APH.

(C) NMTP payments to producers under this notice for losses to crops shall be based on an amount determined by multiplying the eligible loss of production for the farm by the applicable payment rate. The payment rate will be based on the 2004 established Risk Management Agency (RMA) price for local, applicable insured crops, or the 1999–2003 Olympic average for local, applicable noninsured crops, as determined by the Deputy Administrator. Prices will be established by the Deputy Administrator, using supporting data from RMA, NASS, or other available sources. Grazing losses will be based on the loss of forage value.

(D) Attorney's fees may be claimed for representation resulting from eligible losses due to the application of Tebuthiuron if the attorney certifies in a manner acceptable to the Deputy Administrator that representation was provided to a farmer. A written agreement of the terms and conditions must be provided along with the amount (by formula or dollar amount) as certified by the producer and attorney for which the producer is currently obligated or will be obligated to the attorney upon receipt of the NMTP payments.

VI. General

(A) The NMTP shall be under the supervision of the Deputy Administrator, who shall have the authority to modify terms and conditions of the NMTP, and to impose additional terms and conditions, in order to achieve the purposes of the program.

(B) The producer, to receive payment, must meet all conditions set out in these regulations, the program application, or otherwise imposed by the Deputy Administrator.

(C) For additional information, and to submit an application directly to FSA, affected producers should contact the Farm Service Agency at the address above or contact the Eddy County FSA Office in Carlsbad, New Mexico.

(D) Payments are subject to administrative offset.

VII. Procedure, Application Deadline, Appeals, and Appeals Resolutions

FSA will collect the information from all claimants. Claimants must submit an application by the close of business on October 4, 2004. You must submit an

application for benefits at the Eddy County, New Mexico FSA office. CCC will accept or reject each application in whole or in part and will notify each producer in writing of such determination. If a producer disagrees with the determination, the producer may request reconsideration, file an appeal, and enter into Alternative Dispute Resolution (ADR) according to the regulations found at 7 CFR part 780, Appeal Regulations, and 7 CFR part 11.

If there are amounts in dispute, those amounts may be withheld from distribution to address those claims. If there is to be a pro-ration, such a withholding can affect all claimants. Alternatively, CCC may resolve the matter based upon the information at hand and make a full distribution, in which case there may not be sufficient funds to allow an appeal. The Deputy Administrator shall make the final determinations. All determinations on all claims shall be final except to the extent a withholding is made to allow for appeal to the USDA National Appeals Division. Notwithstanding any provision of this notice, the Deputy Administrator can adjust claims in any manner deemed appropriate to accomplish the goals of the program, may allow waivers of requirements as appropriate, and may prorate or withhold funds as needed to resolve claims under this program within the funding limit. The purpose of this notice is to inform producers of the availability of the program and to establish the basis on which program determinations can be made. Upon the end of the 2004 application period referred to in this section, the Deputy Administrator shall decide whether, based on the total claims filed, a proration is appropriate or needed. If a proration is decided upon, payment calculations shall be adjusted accordingly.

If after paying claims for the 2004 applications, funds remain from the $414, 614 referred to in section II of this notice, then, subject to conditions that will now be set out, those eligible producers who filed 2004 claims may file additional claims. The conditions are as follow. The claims must be filed in the period September 1–10, 2005. Payments on those claims may not exceed the funds remaining of the $414, 614 mentioned above. The losses must meet the same criteria, except as to the time of occurrence, as the 2004 claims. The claims may be prorated as needed to reflect the remaining funds. The Deputy Administrator may set additional conditions as deemed warranted by the Deputy Administrator.

Signed at Washington, DC, August 24, 2004.

Michael W. Yost,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 04–20108 Filed 9–2–04; 8:45 am]

BILLING CODE 0510–034–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

The Emergency Food Assistance Program; Availability of Commodities for Fiscal Year 2004

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2004. The commodities made available under this notice must be distributed to eligible recipient agencies for use in preparing meals and/or for distribution to households for home consumption.

EFFECTIVE DATE: October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION: In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7502, and the Food Stamp Act of 1977, 7 U.S.C. 2011, *et seq.*, the Department makes commodities and administrative funds available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with 7 CFR 251.3(h), each State's share of TEFAP commodities and administrative funds is based 60 percent on the number of low-income households within the State and 40 percent on the number of unemployed persons within the State. State officials are responsible for establishing the network through which the commodities will be used by eligible recipient agencies (ERAs) in providing nutrition assistance to those in need, and for allocating commodities and administrative funds among those agencies. States have full discretion in determining the amount of commodities that will be made available to ERAs for use in preparing meals, and/or for distribution to households for home consumption.

The types of commodities the Department expects to make available to States for distribution through TEFAP in FY 2004 are described below.

Surplus Commodities

Surplus commodities donated for distribution under TEFAP are Commodity Credit Corporation (CCC) commodities determined to be available for donation by the Secretary of Agriculture under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416), and commodities purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of commodities typically made available under section 416 include dairy, grains, oils, and peanut products. The types of commodities purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

In FY 2004, the Department anticipates that there will be sufficient quantities of nonfat dry milk and ready-to-eat pudding available for donation under section 416 and frozen turkey breast, canned and frozen orange juice, fruit-nut mix, dried cherries, dates, figs, canned tomatoes, walnuts, canned and frozen asparagus, canned salmon and raisins under section 32 to support the distribution of these commodities through TEFAP. Other surplus commodities may be made available to TEFAP later in the year. The Department would like to point out that commodity acquisitions are based on changing agricultural market conditions; therefore, the availability of commodities is subject to change.

Approximately $80.7 million in surplus commodities purchased in FY 2003 are being delivered to States in FY 2004. These commodities include frozen strawberries, frozen ground bison, frozen turkey deli, frozen peaches, frozen asparagus, frozen lamb roasts, salmon, dried plums, dried raisins, dehydrated potatoes, non-fat dry milk, ready-to-eat pudding, and the following canned items: tomatoes and tomato sauce, apricots, peaches, pears, pineapple, asparagus, and bison stew.

Purchased Commodities

In accordance with section 27 of the Food Stamp Act of 1977, 7 U.S.C. 2036, the Secretary is directed annually, through FY 2007, to purchase $140 million worth of commodities for distribution through TEFAP. These commodities are made available to States in addition to those surplus

commodities which otherwise might be provided to States for distribution under TEFAP. However, the Consolidated Appropriations Act, 2004 (Public Law 108–199) permits States to convert any or all of their fair share of $10 million of these funds to administrative funds to pay costs associated with the distribution of TEFAP commodities at the State and local level. States have in the current fiscal year chosen to use $744,206 of their "fair shares" of this $10 million to increase their commodity entitlements.

In addition, $50 million was appropriated under the Commodity Assistance Program heading of the Consolidated Appropriations Act, 2004, as administrative funds. State agencies have the option of requesting that the Department use any or all of their "fair shares" of this $50 million to purchase additional commodities for them.

For FY 2004, the Department anticipates purchasing the following commodities for distribution through TEFAP: dehydrated potatoes, corn syrup, egg mix, blackeye beans, great northern beans, kidney beans, lima beans, pinto beans, dried plums, raisins, bakery mix, lowfat bakery mix, egg noodles, white and yellow corn grits, macaroni, oats, peanut butter, rice, spaghetti, vegetable oil, rice cereal, corn flakes, corn squares, oat cereal, bran flakes, frozen ground beef, frozen chicken, frozen ham, frozen turkey roast, and the following canned items: green beans, refried beans, vegetarian beans, carrots, cream corn, whole kernel corn, sliced potatoes, spaghetti sauce, tomatoes, tomato sauce, tomato soup, vegetarian soup, apple juice, cranapple juice, grapefruit juice, orange juice, pineapple juice, tomato juice, apricots, peaches, pineapples, applesauce, pears, plums, beef, beef stew, chicken, pork, tuna, and roasted peanuts. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of commodities or the non-availability of one or more types listed above.

Dated: August 11, 2004.

Roberto Salazar,

Administrator.

[FR Doc. 04–20078 Filed 9–2–04; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Public Meeting Will allow Interested Parties To Comment on the Activities of the Resource Conservation and Development Program

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Department of Agriculture's Natural Resources Conservation Service (NRCS) will hold a meeting to solicit comments on the activities of the Resource Conservation and Development (RC&D) Program. Section 2504 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) requires that the Secretary of Agriculture, in consultation with the National Association of Resource Conservation and Development Councils (NAR&DC), evaluate RC&D to determine whether it is effectively meeting the needs of, and purposes identified by States, units of government, Indian tribes, non-profit organizations, and councils participating in, or served by, the program. The Secretary of Agriculture, acting through NRCS, will conduct this evaluation, and submit to the Committee on Agriculture of the U.S. House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation, together with any recommendations of the Secretary for continuing, terminating, or modifying the program, by June 30, 2005.

As part of this evaluation, NRCS is conducting public meetings, with all interested parties, to solicit comments on the activities of the program. Comments will be solicited on, and should be limited to, the following topics: (1) RC&D effectiveness in meeting the needs of the States, units of government, Indian tribes, non-profit organizations, and RC&D councils served by the program; (2) RC&D effectiveness in developing community leadership; (3) RC&D Program elements that best serve regional conservation and development needs; and (4) RC&D Program elements that can be strengthened to better serve regional conservation and development needs.

EFFECTIVE DATES: The schedule for the remaining three listening sessions is as follows:

- September 2, 2004—Ogleby Resort and Conference Center, Wheeling, West Virginia, 1 p.m.–4:30 p.m.
- September 22, 2004—Savannah Marriott Riverfront Hotel, Savannah, Georgia, 2 p.m.–5 p.m.
- September 28, 2004—Campbell Resort, Chelan, Washington, 9 a.m.–12 p.m.

Written comments may also be submitted, no later than September 30, 2004, to Terry D'Addio, National RC&D Program Manager, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 312, Cotton Annex Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Terry D'Addio, Natural Resources Conservation Service, telephone: (202) 720–0557; fax (202) 690–0639; e-mail: *Terry.d'addio@usda.gov*.

Signed in Washington, DC on August 23, 2004.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 04–20094 Filed 9–2–04; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from Procurement List.

SUMMARY: The Committee is proposing to delete from the Procurement List products previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: October 3, 2004.

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 on the proposed actions.

Deletions

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 may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products 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 proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Assembly of Kit Camouflage Support System,
1080–00–108–1173;
1080–00–179–6025;
1080–00–556–4954;
1080–01–179–6024.
NPA: Lighthouse for the Blind, St. Louis, Missouri.
Contract Activity: U.S. Army Communications-Electronic Command, Ft. Monmouth, NJ.

G. John Heyer,

General Counsel.

[FR Doc. 04–20142 Filed 9–2–04; 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 services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

EFFECTIVE DATE: October 3, 2004.

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 June 25, July 2, and July 9, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 35580, 40350, and 41456) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the 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 services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Services, Colville NF Ranger Station,
255 W 11th, Kettle Falls, Washington.
NPA: Career Connections, Spokane, Washington.
Contract Activity: USDA, Forest Service, Colville, Washington.
Service Type/Location: Custodial Services, National Institute of Standards & Technology (NIST),
Advanced Measurement Laboratory, Gaithersburg, Maryland.
NPA: Opportunities, Inc., Alexandria, Virginia.
Contract Activity: National Institute of Standards & Technology, Gaithersburg, Maryland.
Service Type/Location: Custodial Services, Quad-Cities Veterans Center,
1529 46th Avenue, Moline, Illinois.
NPA: Association for Retarded Citizens of Rock Island County, Rock Island, Illinois.
Contract Activity: Veterans Affairs Medical Center, Iowa City, Iowa.
Service Type/Location: Custodial Services, Ranger Station/Comp Bldg.,
765 S. Main, Colville, Washington.
NPA: Career Connections, Spokane, Washington.
Contract Activity: USDA, Forest Service, Colville, Washington.
Service Type/Location: Switchboard Operation,
4th Communication Squadron,
1695 Wright Brothers Avenue, Seymour Johnson AFB, North Carolina.
NPA: Coastal Enterprises of Jacksonville, Inc., Jacksonville, North Carolina.
Contract Activity: AF–ACC–Seymour Johnson, Seymour Johnson AFB, North Carolina.

Deletions

On April 7, and April 30, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 17391, and 23723) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products 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 result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products 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 deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product/NSN: Sheet, Bed, Disposable, 7210–00–498–0512.
NPA: East Texas Lighthouse for the Blind, Tyler, Texas.
Contract Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.
Product/NSN: Tarpaulin, Support Arm, 5815–01–108–9180.
NPA: None currently authorized.
Contract Activity: Defense Supply Center

Columbus, Columbus, Ohio.

G. John Heyer,

General Counsel.

[FR Doc. 04–20160 Filed 9–2–04; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1350]

Approval of Manufacturing Authority Within Foreign-Trade Zone 82; Mobile, Alabama; Bender Shipbuilding and Repair Company (Shipbuilding)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the City of Mobile, Alabama, grantee of FTZ 82, has requested authority under Section 400.32(b)(1) of the Board's regulations on behalf of Bender Shipbuilding and Repair Company (Bender), to construct and repair oceangoing vessels under FTZ procedures within FTZ 82—Site 1, Mobile, Alabama (Docket 37–2003, filed 7–29–2003);

Whereas, pursuant to 15 CFR 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same, in terms of products involved, to activity recently approved by the Board (§ 400.32(b)(1)(i));

Whereas, the proposed shipbuilding and repair activity would be subject to the "Standard Shipyard Restriction" (full Customs duties paid on steel mill products); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of Section 400.31, and the Executive Secretary has recommended approval, subject to restriction;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to Section 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including Section 400.28, and the following special conditions:

1. Any foreign steel mill product admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to full Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

2. In addition to the annual report, Bender shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

3. All foreign-origin netting of twine, cordage, or rope covered by Textile Category 229 must be admitted under domestic status (19 CFR 146.43).

Signed at Washington, DC, this 27th day of August 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–20156 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 40–2004]

Foreign-Trade Zone 153—San Diego, CA; Application for Subzone Status; Callaway Golf Company Facilities (Golf Clubs), Carlsbad, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Diego, California, grantee of FTZ 153, requesting special-purpose subzone status for the golf club manufacturing facilities of Callaway Golf Company (Callaway), located in Carlsbad, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 27, 2004.

The proposed subzone would include Callaway's manufacturing and warehousing facilities at four sites in Carlsbad (San Diego County), California: Site 1 (four buildings)" Building 1 (manufacturing/7 acres/128,000 sq.ft. under roof)—2285 Rutherford Road, located adjacent to the McClellen-Palomar Airport; Building 2 (2 acres/38,000 sq.ft.)—5928 Pascal Court, located immediately to the west of Building 1; Building 3 (manufacturing, warehousing/5 acres/73,000 sq.ft.)—5960 Pascal Court, located to the rear of Building 2; Building 8 (2 acres/20,000 sq.ft.)—2261 Rutherford Road, located immediately to the west of Building 2; Site 2—Headquarters Building (manufacturing/11 acres/245,000 sq. ft.)—2180 Rutherford Road, located about 1,500 feet to the west of Site 1; Site 3 (three buildings)—Building 5 (research and development/5 acres/63,000 sq.ft.)—5858 Dryden Place, located about three-fourths of a mile southwest of Site 2; and, Building 6 (testing and development/9 acres/10,000 sq.ft.)—5860 Dryden Place, located adjacent to Building 5; and, Grounds Keeping Building (960 sq.ft.)—5825 Dryden Place; Site 4—Building 7 (warehousing/9 acres/150,000 sq.ft./leased)—2081 Faraday Avenue, located approximately 900 feet to the west of Site 2.

The facilities (2,000 employees) are used to produce golf clubs (drivers/fairway woods, irons, putters) and to distribute U.S. and foreign-made golf clubs, parts of golf clubs, and accessories for export and the U.S. market. The golf club manufacturing process at the facilities involves machining and assembly, and could produce up to 13 million units annually. Components purchased from abroad (about 35% of finished golf club value) used in manufacturing and production may include: parts of golf clubs (heads and parts of heads, shafts, grips, head covers, divot tools), glues, adhesives, plastic plugs and ferrules, leather golf bags, golf bags of textile materials (Textile Categories 369 and 870; would be admitted under privileged foreign (PF) status (19 CFR 146.41)), name plates, medallions, and plates (duty rate range: free—20%, *ad valorem*). Additional foreign-sourced components and accessories to be distributed to the U.S. market and export include: golf clubs, parts of golf clubs, golf balls, plugs, ferrules, leather luggage/briefcases/shoe cases/golf gloves/duffel bags, leather golf bags, umbrellas, metal boxes and lids, name plates, table decorations of iron or steel; and, the following items classified within Textile Categories 331/631/831, 359/459/659/859, 363/369/669, 670/870: golf bags of textile materials, pouches, hats/caps/visors, towels, and golf gloves of textile materials (to be admitted under PF status).

FTZ procedures would exempt Callaway from Customs duty payments on the foreign component inputs used in export production. On its domestic sales and exports to NAFTA markets, the company would be able to choose the duty rate that applies to finished golf clubs (4.4%) for the foreign-sourced inputs noted above. Callaway would be able to defer Customs duty payments on

the foreign-origin golf clubs and accessories that would be admitted to the proposed subzone for U.S. distribution. The application indicates that subzone status would help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is November 2, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 17, 2004).

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No.1 listed above and at the U.S. Department of Commerce Export Assistance Center, Suite 230, 6363 Greenwich Drive, San Diego, CA 92122.

Dated: August 27, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–20152 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1349]

Grant of Authority for Subzone Status; Festo Corporation (Pneumatic Industrial Automation Products), Hauppauge, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, an application from Suffolk County, New York, grantee of FTZ 52, for authority to establish special-purpose subzone status for the pneumatic industrial automation ("fluid power") components manufacturing facilities of Festo Corporation, in Hauppauge, New York, was filed by the Board on June 23, 2003, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 32–2003, 68 FR 39509, 7–2–2003); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were subject to restriction;

Now, Therefore, the Board hereby grants authority for subzone status at the pneumatic industrial automation ("fluid power") components manufacturing facilities of Festo Corporation, in Hauppauge, New York (Subzone 52A), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following restrictions: (1) All foreign-origin steel mill products must be admitted under privileged foreign status (19 CFR 146.41) or domestic status (19 CFR 146.43); (2) All foreign-origin textile mill products must be admitted under privileged foreign status or domestic status; and, (3) Festo will submit supplemental annual report data for FTZ Staff monitoring purposes.

Signed at Washington, DC, this 27th day of August 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–20155 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 39–2004]

Foreign-Trade Zone 163—Ponce, Puerto Rico Area; Application for Expansion/Time Extension

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Codezol, C.D., grantee of FTZ 163, requesting authority to expand FTZ 163, in the Ponce, Puerto Rico area, adjacent to the Ponce Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 25, 2004.

FTZ 163 was approved on October 18, 1989 (Board Order 443, 54 FR 46097, 11/01/89) and expanded on April 18, 2000 (Board Order 1091, 65 FR 24676, 4/27/00). The zone project currently consists of the following sites in the Ponce, Puerto Rico, area: Site 1 (106 acres)—within the Port of Ponce area, including a site (11 acres) located at 3309 Avenida Santiago de los Caballeros, Ponce; Site 2 (191 acres, 5 parcels)—Peerless Oil & Chemicals, Inc. Petroleum Terminal facilities located at Rt. 127, Km. 17.1, Penuelas; Site 3 (13 acres, 2 parcels)—Rio Piedras Distribution Center located within the central portion of the Quebrada Arena Industrial Park, and the Hato Rey Distribution Center located within the northeastern portion of the Tres Monjitas Industrial Park, San Juan; Site 4 (14 acres)—warehouse facility located at State Road No. 3, Km. 1401, Guayama (expires 10/1/04).

The applicant is requesting authority to expand the zone to include 2 additional sites (342 acres) in Ponce: Proposed Site 5 (256 acres, 34 parcels)—Mercedita Industrial Park located at the intersection of Route PR–9 and Las Americas Highway, Ponce; and, Proposed Site 6 (86 acres)—Coto Laurel Industrial Park located at the southwest corner of the intersection of Highways PR–56 and PR–52, Ponce. The sites are principally owned by the Port of Ponce, Vassallo Industries, Inc., and Desarrollos E Inversiones Del Sur, Inc. The applicant is also requesting permanent zone status for Site 4. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to

investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses below:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building–Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or

2. Submissions via U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is November 2, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 17, 2004).

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No. 1 listed above and Codezol, C.D., 3309 Avenida Santiago de los Caballeros, Ponce, Puerto Rico 00734.

Dated: August 25, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–20153 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1348]

Expansion of Foreign-Trade Zone 36, Galveston, TX Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board of Trustees of the Galveston Wharves, grantee of Foreign-Trade Zone 36, submitted an application to the Board to expand and reorganize FTZ 36 to add four parcels (112 acres) to Site 1; to remove a parcel from Site 1 (formerly Parcel 1, 2.67 acres); to add 45 acres to Site 1, Parcel 2; to add a parcel (96 acres) to Site 2; and, to add a new site (Site 3: 74 acres, 2 parcels) at Scholes International Airport, adjacent to the Houston-Galveston Customs port of entry (FTZ Docket 2–2004; filed 1/23/04);

Whereas, notice inviting public comment was given in the **Federal Register** (69 FR 5315, 2/4/04; 69 FR 18530, 4/8/04), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to reorganize and expand FTZ 36 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 27th day of August 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–20154 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841]

Structural Steel Beams from Korea: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On September 30, 2003, the Department of Commerce (the Department) published in the **Federal Register** (68 FR 56262) a notice announcing the initiation of the administrative review of the antidumping duty order on structural steel beams from the Republic of Korea (Korea). The period of review (POR) is August 1, 2002, to July 30, 2003.

We preliminarily determine that sales of structural steel beams from Korea have been made at prices below the normal value (NV) by the respondents, INI Steel Company (INI) and Dongkuk Steel Mill Co., Ltd. (DSM). If these preliminary results are adopted in the final results of this administrative review, we will instruct Customs and Border Protection (CBP) to assess antidumping duties based on all appropriate entries.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the issues, (2) a brief summary of the argument, and (3) a table of authorities.

EFFECTIVE DATE: September 3, 2004.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Enforcement, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–6312 or (202) 482–0649.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2003 the Department published a notice of opportunity to request an administrative review of the antidumping duty order on structural steel beams from Korea. (*See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 45218 (August 1, 2003)). On August 29, 2003, petitioners Nucor Corporation, Nucor Yamato Steel Co., and TXI-Chaparral Steel Co. requested that the Department conduct an administrative review of DSM and INI, which are Korean producers of subject merchandise. Also, on August 29, 2003, DSM requested that the Department conduct an administrative review of their sales of subject merchandise during the POR. On September 30, 2003, the Department published a notice of initiation of a review of structural steel beams from Korea covering the period August 1, 2002, through July 31, 2003. (*See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 56262 (September 30, 2003)). On December 17, 2003 the Department issued its antidumping duty questionnaires, covering Sections A through E, to INI and to DSM.

The Department had not disregarded sales of structural steel beams made by DSM at prices below the cost of production (COP) in the most recently completed review of DSM; therefore DSM was not initially required to respond to section D of the questionnaire. On March 2, 2004, petitioners filed an allegation that DSM had made below-cost sales. On April 6, 2004, the Department initiated a cost investigation of DSM, after which DSM was required to respond to Section D of the questionnaire.

Because we disregarded sales of certain products made by INI at prices below the COP in what was at that time the most recently completed review of structural steel beams from Korea (*see Structural Steel Beams From the Republic of Korea; Final Results of Antidumping Duty Administrative*

Review, 68 FR 2499 (January 17, 2003)), we had reasonable grounds to believe or suspect INI made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, from the outset of this review we required INI to respond to section D of the questionnaire.

INI submitted its response to sections A through D on January 16, 2004. On April 6, 2004, the Department issued a supplemental questionnaire to INI, to which INI responded on April 30, 2004. On July 21, 2004, the Department issued a second supplemental questionnaire to INI, to which INI responded on August 11, 2004.

DSM submitted its response to section A of the questionnaire on January 7, 2004, and its response to sections B and C of the questionnaire on February 9, 2004. On March 9, 2004, the Department issued a supplemental questionnaire to DSM for Section A, to which DSM responded on April 6, 2004. On April 15, 2004, the Department issued a supplemental questionnaire to DSM for Section B, to which DSM responded on May 10, 2004. On May 3, 2004, the Department issued a supplemental questionnaire to DSM for Section C, to which DSM responded on May 27, 2004.

DSM submitted its response to Section D of the questionnaire on May 4, 2004. On July 22, 2004, the Department issued an additional supplemental questionnaire to DSM, covering sections A, B, C, and D, to which DSM responded on August 20, 2004.

Both INI and DSM indicated in their initial Section A responses that no further manufacturing in the United States was performed by an affiliate or a contractor, and neither provided responses to Section E of the questionnaire.

Because it was not practicable to complete this review within the normal time frame, on December 16, 2003, the Department extended the time limit for the preliminary results of the administrative review to August 30, 2004 (*see Structural Steel Beams From Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 16894 (March 31, 2004)).

Period of Review

The POR is from August 1, 2002, to July 30, 2003.

Scope of the Review

The products covered by this review are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes) and "M" shapes. All products that meet the physical and metallurgical descriptions provided above are within the scope of this review unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this review: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this review is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.00000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7216.99.0010, 7216.99.0090, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all structural steel beams produced by DSM and INI covered by the description in the "Scope of the Review" section of this notice, *supra*, which were sold in the home market during the reporting period for home market sales, to be the foreign like product for the purpose of determining appropriate product comparisons to structural steel beams products sold in the United States. In making product comparisons, we matched products based on the physical characteristics identified in our questionnaire and reported by DSM and INI as follows (listed in order of preference): hot-formed or cold-formed, shape/size (section depth), strength/grade, whether or not coated. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the questionnaire, or to constructed value (CV), as appropriate.

Affiliation

In the previous administrative review, which covered the August 1, 2001 through July 31, 2002 POR, the Department found DSM and Dongkuk Industries Co., Ltd., (DKI) to be affiliated because they were under the common control of a family grouping. (*See Preliminary Results of Antidumping Duty Administrative Review: Structural Steel Beams From the Republic of Korea*, 68 FR 53129, 53131 (September 9, 2003), unchanged in *Structural Steel Beams From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 69 FR 7200, 7201 (February 13, 2004)). DSM and DKI have been determined to be affiliated in recent reviews of other antidumping duty orders covering PORs that overlap with the POR of the current review of structural steel beams from Korea. (*See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 68 FR 62770, 62771 (November 6, 2003), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results and Rescission in Part of Antidumping Duty Administrative Review*, 69 FR 26361 (May 12, 2004), with a POR of February 1, 2002, through January 31, 2003; and *Steel Concrete Reinforcing Bar From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 69 FR 19399 (April 13, 2004), and accompanying Issues and Decision Memorandum at Comment 1, with a POR of January 30, 2001, through August 31, 2002).

In the current structural steel beams review, DSM stated in its January 7, 2004, Section A response at page 9 that DKI ceased to be affiliated with DSM as of January 2001 because of a change in DKI's ownership percentage of DSM. However, this change took place prior to the previous (August 1, 2001, through July 31, 2002) POR, and this information was also accounted for in the Department's affiliation decisions in the aforementioned proceedings. Furthermore, DSM acknowledged that some of the major owners of DKI are relatives of some of the major owners of DSM (*see* January 7, 2004, Section A response at page 9), as was the case in the previous review, and did not provide any additional arguments why the Department should determine differently in this review. DSM has since continued to maintain that it is not affiliated with DKI (*see* DSM's August 20, 2004, supplemental questionnaire response in footnote 8 at

page 23), but DSM did not provide any additional information or explanation to demonstrate that any substantive change has taken place. Consequently, we find sufficient evidence to conclude that DSM and DKI continue to be affiliated based on the record of this review, given the lack of any new information which would lead us to conclude otherwise.

Normal Value Comparisons

To determine whether sales of structural steel beams from Korea to the United States were made at less than normal value (NV), we compared the export price (EP) or the constructed export price (CEP) to the NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act, we compared the EPs and CEPs of individual U.S. transactions to the monthly weighted-average NVs of the foreign like product where there were sales at prices above the cost of production (COP), as discussed in the "Cost of Production" section below.

Export Price and Constructed Export Price

Section 772(a) of the Tariff Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser for exportation to the United States * * *," as adjusted under subsection (c). Section 772(b) of the Tariff Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, to a purchaser not affiliated with the producer or exporter * * *," as adjusted under subsections (c) and (d). For the purposes of this administrative review, DSM has classified all of its U.S. sales as CEP sales, and INI has classified all of its U.S. sales as EP sales.

INI

For INI, we calculated the price of U.S. sales made prior to importation to unaffiliated purchasers in the United States. We made deductions from the reported gross price for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight from plant to warehouse, foreign inland freight from plant/warehouse to port of exportation, foreign warehousing, international freight, U.S. duties, and U.S. brokerage expenses. We made an addition to U.S. price for duty drawback pursuant to section 772(c)(1)(B) of the Tariff Act.

DSM

For DSM, we calculated CEP based on the prices from Dongkuk International, Inc. (DKA), a U.S. affiliate of DSM, to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight from the plant to the port of export, foreign brokerage and handling expenses incurred by DSM and DKI (*i.e.*, loading and unloading charges, wharfage and lashing expenses, brokerage fees, and port renovation expenses), international freight, marine insurance, other U.S. transportation expenses (*i.e.*, U.S. wharfage, brokerage, and handling charges), and U.S. customs duty. Also, we made deductions for commissions for selling the subject merchandise in the United States in accordance with section 772(d)(1)(A) of the Tariff Act.

Additionally, we made deductions for expenses that bear a direct relationship to the sale in the United States (*i.e.*, credit, and other direct selling expenses) pursuant to section 772(d)(1)(B). We added an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

For CEP sales, we also made an adjustment for profit in accordance with section 772 (d)(3) of the Tariff Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and 772(d)(2) in accordance with sections 772(d)(3) and 772(f) of the Tariff Act. In accordance with section 772(f) of the Tariff Act, we computed profit based on total revenue realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison market sales are at a different LOT and that difference affects price comparability (as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction), we make an LOT adjustment under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affects price comparability, we adjust NV under section 773(A)(7)(B) of the Tariff Act (the CEP offset provision). (*See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997)).

In identifying levels of trade for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Tariff Act. (*See Micron Technology, Inc.* v. *United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001)). Generally, if the reported levels of trade are the same in the home and U.S. markets, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different for different categories of sales, the functions and activities should be dissimilar. (*See Porcelain-on-Steel Cookware from Mexico; Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000)).

In implementing these principles in this administrative review, we obtained information from INI and DSM about the marketing stages involved in its reported U.S. and home market sales, including descriptions of the selling activities performed for each channel of distribution.

INI

INI indicated its home market sales were through two channels (sales to unaffiliated distributors, and sales to affiliated and unaffiliated end-users) and its U.S. sales were through one channel (to unaffiliated U.S. customers). INI did not claim any distinct levels of trade, and its descriptions of selling functions indicated very little variation

across channels and markets. Consequently, we preliminarily determine that there is only one level of trade in both markets for INI.

DSM

DSM claimed only one level of trade in the home market. (*See* DSM's February 9, 2004, Section B response at page 22). Additionally, DSM reported that it sold through two channels of distribution in the home market: directly to unaffiliated customers (distributors and end-users); and government entities. (*See* DSM's February 9, 2004 Section B response at page 10). DSM reported that it performed a limited range of selling functions in the home market. (*See* DSM's January 7, 2004, section A response at Appendix 4). Because DSM performed the same selling functions for its two channels of distribution in the home market and identical selling functions are performed for all home market sales, we preliminarily determine there is one LOT in the home market.

DSM claimed one level of trade in the U.S. market. DSM reported it sold through one channel of distribution in the U.S. market, directly from its production facility to the unaffiliated U.S. customer. However the complete sales process was as follows: DSM sold the merchandise to an affiliated Korean trading company, DKI, which then resold the merchandise to another affiliate, DKA, which resold the merchandise to the unaffiliated U.S. customer. (*See* DSM's January 7, 2004, section A response at pages 8 and 9).

To determine the LOT of the respondent's CEP sales, we analyze the cumulative selling functions performed by DSM and by DKI. With respect to the assorted selling functions identified by DSM and its affiliates in DSM's response, the record indicates that those selling functions were the same for all U.S. sales. (*See* DSM's January 7, 2004 section A response at Appendix 4). In addition, DSM did not identify all of the functions in the Department's original questionnaire, nor did it appear to identify all of the functions performed for U.S. sales. Therefore, we preliminarily determine that there is no basis for determining that there is a distinct, less advanced LOT for U.S. sales than for home market sales. Therefore, no LOT adjustment or CEP offset is warranted.

Normal Value

A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Tariff Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined the home market was viable. (*See* INI's April 30, 2004, response at Exhibit A–23 and DSM's January 7, 2004 section A response at Appendix A–1).

B. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the prices at which sales are made to parties not affiliated with the respondent, *i.e.*, sales at arm's-length. (*See* section 773(f)(2) of the Tariff Act; *see also* 19 CFR 351.403(c)).

DSM reported no sales to affiliated parties in the home market. INI reported that a small portion of its home market sales were to affiliated parties. Those sales to affiliated parties amounted to less than five percent of total home market sales, and INI was not required to report downstream sales of those affiliated parties. Sales to affiliated customers in the home market not made at arm's-length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. (*See* 19 CFR 351.102(b)). To test whether the sales to affiliates were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all direct selling expenses, discounts and rebates, movement charges, and packing. Where applicable, we also made adjustments to gross unit price for reported billing adjustments. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. In accordance with the Department's practice, we disregarded sales to affiliated parties that we determined were not made at arm's length.

C. Cost of Production Analysis

In accordance with section 773(b)(3) of the Tariff Act, we calculated the weighted-average COP for each model based on the sum of material and fabrication costs for the foreign like product, plus amounts for selling expenses, general and administrative (G&A) expenses, interest expenses and packing costs. The Department relied on the COP data reported by INI and DSM.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

To determine whether INI made sales at prices below COP, we compared the product-specific COP figures to home market prices net of reported billing adjustments, discounts and rebates, and applicable movement charges of the foreign like product as required under section 773(b) of the Tariff Act. To determine whether DSM made sales at prices below COP, we compared the product-specific COP figures to home market prices net of applicable movement charges of the foreign like product as required under section 773(b) of the Tariff Act.

Our cost test for INI and for DSM revealed that for home market sales of certain models, less than 20 percent of the sales volume (by weight) of those models were at prices below the COP. We therefore retained all such sales observations in our analysis and used them in the calculation of NV. Our cost

test also indicated that for certain INI models, 20 percent or more of the home market sales volume (by weight) were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time; for DSM that was not the case. Thus, in accordance with section 773(b)(1) of the Tariff Act, for INI we excluded these below-cost sales from our analysis and used the remaining above-cost sales in the calculation of NV.

D. Constructed Value

In accordance with section 773(e) of the Tariff Act, for both INI and DSM, we calculated CV based on the sum of the respondent's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market direct and indirect selling expenses.

E. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers and prices to affiliated customers we determined to be at arm's length for home market sale observations that passed the cost test, and made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act.

For INI, we made adjustments to gross unit price, where applicable, for billing adjustments, discounts and rebates, and interest revenue, and made deductions, where applicable, for foreign inland freight (*i.e.*, inland freight from plant to distribution warehouse, and inland freight from plant/distribution warehouse to customer), pursuant to section 773(a)(6)(B) of the Tariff Act. In accordance with section 773(a)(6)(A) and (B) of the Tariff Act, we deducted home market packing costs and added U.S. packing costs. We made adjustments for differences in circumstances of sale, where applicable, for commissions, home market credit expenses, warranty expenses, and U.S. imputed credit expenses, in accordance with section 773(a)(6)(C)(iii) of the Tariff Act. Finally, in accordance with section 773(a)(4) of the Tariff Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on CV.

For DSM, we based NV on the home market prices to unaffiliated purchasers. We made adjustments for discounts. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act. We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight from plant to customer) in accordance with section 773(a)(6)(B) of the Tariff Act. We made circumstance-of-sale adjustments for credit, where appropriate, in accordance with section 773(a)(6)(C)(iii) of the Tariff Act. In accordance with section 773(a)(6) of the Tariff Act, we deducted home market packing costs and added U.S. packing costs. Finally, in accordance with section 773(a)(4) of the Tariff Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with 773(a)(1)(B)(i), we based NV on CV.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Tariff Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period August 1, 2002, through July 31, 2003, to be as follows:

Manufacturer/Exporter	Margin (percent)
INI Steel Company	16.62
Dongkuk Steel Mill Co., Ltd.	4.39

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication of these preliminary results. (*See* 19 CFR 351.310(c)). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, we would appreciate it if parties submitting case briefs, rebuttal briefs, and written comments would provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such case briefs, rebuttal briefs, and written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to CBP upon completion of the review. For the preliminary results, we calculated importer-specific assessment rates based upon importer information provided by INI and DSM. Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of structural steel beams from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for the companies reviewed will be the rates established in the final results of review;

(2) For any previously reviewed or investigated company not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a previous review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate of 37.21 percent from the LTFV investigation; (*see Notice of Amended Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From South Korea*, 65 FR 50501 (August 18, 2000) and *Structural Steel Beams From South Korea: Notice of Antidumping Duty Order, 65 FR 50502* (August 18, 2000)).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: August 30, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–2069 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083004A]

Notice of Intent to Conduct Public Scoping and Prepare an Environmental Impact Statement on the Funding and Operation of Columbia River Hatcheries

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

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: NMFS is currently developing options for funding and operation of Columbia River basin hatcheries consistent with the Mitchell Act, Endangered Species Act (ESA), treaty Indian trust responsibilities, and broader NMFS objectives for sustainable salmon fisheries under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This activity is a major Federal action significantly effecting the environment and, therefore must comply with the National Environmental Policy Act, (NEPA). NMFS will be the lead agency undertaking the NEPA process for the allocation and distribution of Federal funding authorized by the Mitchell Act for Columbia River basin hatcheries through preparation of an Environmental Impact Statement (EIS). NMFS provides this notice to: advise other agencies and the public of its intent to prepare an EIS; and obtain suggestions and information on the scope of issues and alternatives to include in the EIS.

DATES: Written scoping comments are encouraged and should be received at the appropriate address or fax number (see ADDRESSES) no later than 5 p.m. Pacific time on December 2, 2004. If the response to this Notice indicates there is a need, one or more public scoping meetings will be held. NMFS will notify the public of the time, date, and location of the meeting(s) in a subsequent **Federal Register**.

ADDRESSES: Address comments and requests for information related to preparation of the EIS, requests for public meetings, or requests to be added to the mailing list for this project, to Allyson Ouzts, NMFS Northwest Regional Office, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232; facsimile (503) 872–2737. Comments may be submitted by e-mail to the following address: *MitchellActEIS.nwr@noaa.gov*. In the subject line of the e-mail, include the document identifier: Mitchell Act Hatchery EIS. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Allyson Ouzts at 503–736–4736. In addition, further information on the Mitchell Act hatchery program may be found at: *www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION: The Mitchell Act (16 U.S.C. 755 *et seq.*), which was approved by Congress on May 11, 1938 (Public Law 75–502) and amended on August 8, 1946 (Public Law 79–676), provides authority for the funding, operation, and maintenance of hatcheries in the Columbia River basin in the States of Oregon, Washington, and Idaho. NMFS administers funds appropriated for the Mitchell Act program by Congress and provides annual funding to states, tribes, and other Federal agencies for the operation of Columbia River salmon and steelhead hatchery programs. Funds are used for salmon and steelhead production, monitoring, reform, and associated scientific investigations. Salmon and steelhead produced in these hatcheries are for harvest in the Columbia River basin and ocean fisheries consistent with the Magnuson-Stevens Act, treaty Indian trust responsibilities, and Court decisions (e.g. *U.S.* v. *Oregon*). Under the ESA, NMFS must ensure that hatchery operations in the Columbia River Basin do not jeopardize the survival and recovery of ESA listed salmon or steelhead. Potential ESA evaluations include section 7 consultations, section 10 permits, and determinations under NMFS' 4(d) Rule (July 10, 2000, 65 FR 42422). Consequently, NMFS must take two connected actions: (1) Allocate and distribute Mitchell Act funds for Columbia River hatchery operations; and, (2) make ESA determinations on the operation of Mitchell Act hatchery programs.

NMFS is seeking public input on the scope of the proposed action, including the range of reasonable alternatives and the associated impacts of any alternatives. Alternatives evaluated in the EIS may include: (1) current operation and funding of Mitchell Act hatchery programs (i.e., No Action Alternative); (2) where feasible, a conversion of hatchery programs currently operated to augment harvest into programs designed to aid in recovery of ESA listed salmon and steelhead; (3) movement of some hatchery production to areas upstream to accommodate different fisheries; (4) a change in the numbers and species of salmon and steelhead produced; and (5) an emphasis on maximizing the numbers of harvestable fish in certain areas.

Currently, most funds provided through the Mitchell Act support hatcheries located downstream of The Dalles Dam. However, NMFS will analyze the use of funds for hatchery production throughout the Columbia River basin in various alternatives. As a result, all counties with tributaries to the Columbia River that could support salmon and steelhead production may be affected by the proposed action. In Oregon, these counties include: Clatsop, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Yamhill, Washington, Polk, Marion, Benton, Linn, Lane, Wheeler, Union, Baker, Wallowa, and Grant Counties. In Washington, these counties include: Pacific, Wahkiakum, Cowlitz, Clark, Skamania, Klickitat, Benton, Franklin, Asotin, Columbia, Walla Walla, Whitman, Yakima, Kittitas, Chelan, Douglas, Grant, and Okanogan Counties. In Idaho, these counties include: Latah, Clearwater, Nez Perce, Lewis, Idaho, Valley, Lemhi, Custer, and Adams Counties.

The EIS will evaluate, to the extent possible, the effects of each alternative on the following resources: fish, wildlife, water quality, economic benefits, environmental justice, and tribal subsistence and ceremonial fisheries. In addition, each alternative will be analyzed in terms of estimated costs for implementation and benefits to fisheries and recovery of salmon. The Preferred Alternative will be identified

at the earliest possible time in the EIS process as stipulated by Council on Environmental Quality regulations. The Preferred Alternative will identify a proposed plan for funding and operation of Mitchell Act hatchery programs after considering funding availability, consistency with the ESA, potential impacts on environmental resources, and broader objectives for harvest and/or conservation.

ESA listed species under NMFS jurisdiction that may potentially be affected by the proposed action include: Lower Columbia River Chinook Salmon (*Oncorhynchus tshawytscha*); Upper Willamette River Chinook Salmon (*O. tshawytscha*); Upper Columbia River Spring-Run Chinook Salmon (*O. tshawytscha*); Snake River Spring/Summer-Run Chinook Salmon (*O. tshawytscha*); Snake River Fall-Run Chinook Salmon (*O. tshawytscha*); Snake River Sockeye Salmon (*O. nerka*); Columbia River Chum Salmon (*O. keta*); Lower Columbia River Steelhead (O. mykiss); Upper Willamette River Steelhead (*O. mykiss*); Middle Columbia River Steelhead (*O. mykiss*); Upper Columbia River Steelhead (*O. mykiss*); and, Snake River Basin Steelhead (*O. mykiss*). ESA listed species regulated by the U. S. Fish and Wildlife Service that may potentially be affected by the proposed action include bull trout (*Salvelinus confluentus*) and bald eagles (*Haliaeetus leucocephalus*).

Comments and suggestions are invited from all interested parties to ensure that the EIS considers the full range of related issues and alternatives to the proposed action. NMFS requests that comments be as specific as possible. In particular, NMFS requests information regarding: other possible alternatives; the direct, indirect, and cumulative impacts that implementation of the proposed plan could have on endangered and threatened species and their communities and habitats; potential adaptive management and/or monitoring provisions; funding issues; baseline environmental conditions in counties that may be affected; other plans or projects that might be relevant to this proposed project; and potential methods to minimize and mitigate for impacts.

Written comments concerning the proposed action and its environmental review should be directed to NMFS as described above (see **ADDRESSES**). All comments and materials received, including names and addresses, will be made available to the public upon request.

The environmental review of this project will be conducted in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR 1500 1508), NOAA Administrative Order 216–6, and other appropriate Federal laws and regulations.

Dated: August 30, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–20157 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083004C]

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; Amendment 24

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

ACTION: Notice announcing the preparation of an environmental assessment.

SUMMARY: NMFS, in cooperation with the Gulf of Mexico Fishery Management Council (Council), is preparing an environmental assessment (EA) for proposed Amendment 24 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP). A notice published February 13, 2004, indicated that Amendment 24 would be supported by a Draft Supplemental Environmental Impact Statement (DSEIS). This notice is intended to inform the public of the change in the environmental review document supporting Amendment 24.

FOR FURTHER INFORMATION CONTACT: Rick Leard, phone: 813–228–2815 ext. 228, fax: 813–225–7015, e-mail: *Rick.Leard@gulfcouncil.org*; or Phil Steele, phone: 727–570–5305, fax: 727–570–5583, e-mail: *phil.steele@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS, in cooperation with the Council, is preparing an EA for proposed Amendment 24 to the Reef Fish FMP. The EA will examine alternatives related to the commercial vessel reef fish permit moratorium, which is scheduled to expire on December 31, 2005. Specifically, Amendment 24 includes alternatives that would: allow the moratorium to expire, extend the existing moratorium for a designated time frame, or extend the existing moratorium indefinitely.

On February 13, 2004, NMFS and the Council published a Notice of Intent in the **Federal Register** to prepare a DSEIS in association with Amendment 24 (69 FR 7187). However, the preliminary environmental review of Amendment 24 indicated that it would not likely have a significant impact on the quality of the human environment. Consequently, NMFS and the Council are preparing an EA, rather than proceeding directly with the development of a SEIS. This notice is intended to inform the public of this change.

If the EA results in a Finding of No Significant Impact (FONSI), the EA and FONSI will be the final environmental documents required by the National Environmental Policy Act. If the EA reveals that significant environmental impacts may be reasonably expected to result from the proposed actions, NMFS and the Council will develop a DSEIS to further evaluate those impacts.

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

Dated: August 30, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–20158 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082304C]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical Committee's (SSC) Socioeconomic Subcommittee, SSC Biological Assessment Subcommittee, the SSC, and a joint meeting of the SSC and the SSC Selection Committee. The Council will also hold a joint meeting of its Ecosystem-Based Management Committee and Habitat Committee, a joint meeting of its Shrimp Advisory Panel and Committee, Shrimp Committee, Snapper Grouper Committee, Standard Operation, Policy, and Procedure (SOPPs) Committee, Law Enforcement Committee, Mackerel Committee, and a joint Executive/

Finance Committee meeting. In addition, there will be a meeting of the full Council.

DATES: The meeting will be held in September 2004. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at Pawleys Plantation, 70 Tanglewood Drive, Pawleys Island, SC 29585; telephone: (1–800) 367–9959 or (843) 237–6100, fax: 843/237–6069.

Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: 843–571–4366 or toll free at 866/SAFMC–10; fax: 843–769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION:

Meeting Dates

1. SSC Socioeconomic Subcommittee and SSC Biological Assessment Subcommittee: September 19, 2004 (Concurrent Sessions)

Socioeconomic Subcommittee Meeting, 1 p.m. – 5 p.m.

The SSC Socioeconomic Subcommittee will meet to discuss the Deepwater (Snowy Grouper and Golden tilefish) Assessment, review and comment on the Southeast Data, Assessment, and Review (SEDAR) stock assessment process, and review and comment on data for ecosystem-based management.

Biological Assessment Subcommittee, 2 p.m. – 6 p.m.

The SSC Biological Assessment Subcommittee will meet to discuss the Deepwater (Snowy Grouper and Golden tilefish) Assessment, review and comment on the SEDAR stock assessment process, and discuss the results of the Gulf of Mexico Fishery Management Council's SSC review of the Mackerel Assessment.

2. Scientific and Statistical Committee Meeting: September 20, 2004, 8:30 a.m. – 3 p.m.

The SSC will meet to review the Subcommittee reports and develop recommendations on the Deepwater Assessment, SEDAR stock assessment process and data for ecosystem-based management. The SSC will also provide input regarding the Ecosystem-Based Management or Fishery Ecosystem Plan, Amendment 6 to the Shrimp Fishery Management Plan (FMP), and Amendment 13B to the Snapper Grouper FMP.

3. Joint SSC Selection Committee and SSC Meeting: September 20, 2004, 3 p.m. – 5 p.m.

The Committees will develop recommendations for expanding the role of the SSC.

4. Joint Ecosystem-Based Management and Habitat Committee Meeting: September 21, 2004, 8:30 a.m. – 12 noon

The Ecosystem-Based Management and Habitat Committees will meet jointly to review the draft Action Plan for Ecosystem-Based Management, receive a report on workshops, and develop directions to staff. There will also be an opportunity for public input on ecosystem-based management.

5. Joint Shrimp Advisory Panel and Committee Meeting: September 21, 2004, 1:30 p.m. – 5 p.m.

The Shrimp Advisory Panel (AP) will meet jointly with the Committee to review public comments received for Amendment 6 to the Shrimp FMP and the AP will develop recommendations for the Committee to consider. The AP will also provide input on ecosystem considerations in the Shrimp FMP and receive a presentation on the NOAA Fisheries Shrimp Business Plan.

6. Shrimp Committee Meeting: September 22, 2004, 8:30 a.m. – 12 noon

The Shrimp Committee will meet to develop Committee recommendations for Shrimp Amendment 6.

7. Snapper Grouper Committee Meeting: September 22, 2004, 1:30 p.m. –6 p.m. and September 23, 2004, 8:30 a.m. – 10 a.m.

The Snapper Grouper Committee will meet to discuss the structure and timing of Amendment 13B to the Snapper Grouper FMP and stock status determination criteria contained in the draft document. The Committee will also review preliminary analysis of management regarding size limits, bag limits, and other management measures.

8. SOPPs Committee Meeting: September 23, 2004, 10 a.m. – 11 a.m.

The SOPPs Committee will review the Council's Standard Operating, Policy and Procedures and modify as appropriate.

9. Law Enforcement Committee Meeting: September 23, 2004, 11 a.m. – 12 noon

The Law Enforcement Committee will receive a report on Vessel Monitoring Systems (VMS) and review the Oculina Bank Experimental Closed Area evaluation plan.

10. Mackerel Committee Meeting: September 23, 2004, 1:30 p.m. – 3 p.m.

The Mackerel Committee will review Amendment 15 to the Coastal Migratory Pelagics FMP and approve it for public hearing. The Committee will also discuss the results of the Gulf of Mexico Fishery Management Council's SSC review of the Mackerel Stock Assessment.

11. Joint Executive Committee and Finance Committee Meeting: September 23, 2004, 3 p.m. – 6 p.m.

The Committees will meet jointly to review the current Calendar Year (CY) 2004 budget, the status of the Fiscal Year (FY) 2005 budget, and receive a briefing on the national councils/NOAA Fisheries budget planning for FY 2007–2011. The Committees will develop timeline recommendations for CY 2005–2009 FMP/Amendment/Framework development and approve the grant budget for that time period. The Committees will also develop comments for proposed changes to National Standard 1.

12. Council Session: September 24, 2004, 8:30 a.m. – 4 p.m.

From 8:30 a.m. – 8:45 a.m., the Council will call the meeting order, make introductions and roll call, and adopt the meeting agenda.

From 8:45 a.m. – 9:15 a.m., the Council will elect its Chairman and Vice-Chairman.

From 9:15 a.m. – 10:15 a.m., the Council will receive a report from the Shrimp Committee and approve Amendment 6 to the Shrimp FMP for submission to the Secretary of Commerce. Note: A public comment period for Amendment 6 to the Shrimp FMP will be held at 9:15 a.m.

From 10:15 a.m. – 10:30 a.m., the Council will hear a report from the Snapper Grouper Committee and take action as appropriate.

From 10:30 a.m. – 10:45 a.m., the Council will hear a joint Executive/Finance Committee report and approve the CY 2005–09 FMP/Amendment/Framework timelines and grant budget, and National Standard 1 comments.

From 10:45 a.m. – 11 a.m., the Council will hear a report from the Mackerel Committee and approve Amendment 15 for public hearing.

From 11 a.m. – 11:15 a.m., the Council will hear a SOPPs Committee report and approve the SOPPs for submission to the Secretary of Commerce.

From 11:15 a.m. – 11:30 a.m., the Council will hear a report from the joint meeting of the Ecosystem-Based Management Committee and Habitat Committee.

From 11:30 a.m. – 11:45 a.m., the Council will hear a report from the SSC Selection Committee.

From 11:45 a.m. – 12 noon, the Council will hear a report from the Law Enforcement Committee.

From 1 p.m. – 1:30 p.m., the Council will received a briefing on litigation and

other legal issues affecting the Council (CLOSED SESSION).

From 1:30 p.m. – 1:45 p.m., the Council will hear a report from the Information and Education Committee.

From 1:45 p.m. – 2:15 p.m., the Council will receive a report on NOAA Fisheries' Marine Recreational Fisheries Statistics Survey.

From 2:15 p.m. – 2:45 p.m., the Council will hear status reports from NOAA Fisheries.

From 2:45 p.m. – 3 p.m., the Council will hear agency and liaison reports, discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 17, 2004.

Dated: August 31, 2004.

Bruce C. Morehead,

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

[FR Doc. 04–20159 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 2004–C–042]

Public Advisory Committees

AGENCY: Patent and Trademark Office.

ACTION: Notice and request for nominations; extension for submission of nominations.

SUMMARY: On August 2, 2004, the United States Patent and Trademark Office issued a "Notice and Request for Nominations," for its Patent and Trademark Public Advisory Committees. This Notice was published in the **Federal Register** at 69 FR 46136. The Notice requested nominations for three (3) members to each Public Advisory Committee for terms that begin November 27, 2004. The Notice further advised that nominations must be postmarked or electronically transmitted on or before September 3, 2004. This notice extends the submission deadline to September 17, 2004.

DATES: Nominations must be postmarked or electronically transmitted on or before September 17, 2004.

ADDRESSES: Persons wishing to submit nominations should send the nominee's resumé to Chief of Staff, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313–1450; by electronic mail to: *PPACnominations@uspto.gov* for the Patent Public Advisory Committee or *TPACnominations@uspto.gov* for the Trademark Patent Public Advisory Committee; by facsimile transmission marked to the Chief of Staff's attention at (703) 305–8664; or by mail marked to the Chief of Staff's attention and addressed to the Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313–1450.

FOR FURTHER INFORMATION CONTACT: Chief of Staff by facsimile transmission marked to her attention at (703) 305–8664, or by mail marked to her attention and addressed to the Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313–1450.

SUPPLEMENTARY INFORMATION: Background concerning the nominations may be found at 69 FR 46136.

Procedures for Submitting Nominations

Submit resumés for nomination for the Patent Public Advisory Committee and the Trademark Public Advisory Committee to: Chief of Staff to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, utilizing the addresses provided above.

Dated: August 30, 2004.

Stephen M. Pinkos,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 04–20110 Filed 9–2–04; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting.

DATES: October 13, 2004 from 8 a.m. to 5:15 p.m. and October 14, 2004 from 8 a.m. to 4:10 p.m.

ADDRESSES: SERDP Program Office, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2119.

SUPPLEMENTARY INFORMATION:

Matters To Be Considered

Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

Dated: August 30, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–20113 Filed 9–2–04; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 235. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 235 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: September 1, 2004.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 234. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 235 ARE UPDATES TO THE RATES FOR GUAM AND NORTHERN MARIANA ISLANDS.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
BARROW	159	95	254	05/01/2002
BETHEL	119	77	196	06/01/2004
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER				
05/16 - 09/15	109	63	172	07/01/2003
09/16 - 05/15	99	63	162	07/01/2003
CORDOVA	110	75	185	06/01/2004
CRAIG	100	68	168	06/01/2004
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	89	75	164	06/01/2004
DENALI NATIONAL PARK				
06/01 - 08/31	114	65	179	06/01/2004
09/01 - 05/31	80	61	141	06/01/2004
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	119	72	191	06/01/2004
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
ELMENDORF AFB				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FAIRBANKS				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	89	75	164	06/01/2004
FT. RICHARDSON				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FT. WAINWRIGHT				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
GLENNALLEN				
05/01 - 09/30	137	75	212	06/01/2004
10/01 - 04/30	89	70	159	06/01/2004
HEALY				
06/01 - 08/31	114	65	179	06/01/2004
09/01 - 05/31	80	61	141	06/01/2004
HOMER				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/15 - 09/15	145	77	222	06/01/2004
09/16 - 05/14	99	72	171	06/01/2004
JUNEAU	120	84	204	06/01/2004
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
04/01 - 10/31	110	83	193	04/01/2003
11/01 - 03/31	69	75	144	04/01/2003
KENNICOTT	179	83	262	06/01/2004
KETCHIKAN				
05/01 - 09/30	113	80	193	06/01/2004
10/01 - 04/30	98	78	176	06/01/2004
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	100	68	168	06/01/2004
KODIAK	99	81	180	06/01/2004
KOTZEBUE				
05/01 - 08/31	141	86	227	06/01/2004
09/01 - 04/30	125	85	210	06/01/2004
KULIS AGS				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
MCCARTHY	179	83	262	06/01/2004
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
NOME	120	89	209	06/01/2004
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	90	64	154	06/01/2004
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/01 - 09/30	145	82	227	06/01/2004
10/01 - 04/30	89	72	161	06/01/2004
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	74	193	06/01/2004
10/01 - 04/30	99	72	171	06/01/2004
SKAGWAY				
05/01 - 09/30	113	80	193	06/01/2004
10/01 - 04/30	98	78	176	06/01/2004
SPRUCE CAPE	99	81	180	06/01/2004
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	120	89	209	06/01/2004

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	90	66	156	06/01/2004
10/01 - 04/30	60	63	123	06/01/2004
UMIAT	150	98	248	04/01/2003
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	129	77	206	06/01/2004
10/02 - 04/30	79	72	151	06/01/2004
WASILLA				
05/01 - 09/30	134	82	216	06/01/2004
10/01 - 04/30	80	77	157	06/01/2004
WRANGELL				
05/01 - 09/30	113	80	193	06/01/2004
10/01 - 04/30	98	78	176	06/01/2004
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	135	67	202	06/01/2004
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	89	224	09/01/2004
HAWAII				
CAMP H M SMITH	129	91	220	06/01/2004
EASTPAC NAVAL COMP TELE AREA	129	91	220	06/01/2004
FT. DERUSSEY	129	91	220	06/01/2004
FT. SHAFTER	129	91	220	06/01/2004
HICKAM AFB	129	91	220	06/01/2004
HONOLULU (INCL NAV & MC RES CTR)	129	91	220	06/01/2004
ISLE OF HAWAII: HILO	100	80	180	06/01/2003
ISLE OF HAWAII: OTHER	150	79	229	06/01/2003
ISLE OF KAUAI	158	93	251	06/01/2004
ISLE OF MAUI	159	95	254	06/01/2004
ISLE OF OAHU	129	91	220	06/01/2004
KEKAHA PACIFIC MISSILE RANGE FAC	158	93	251	06/01/2004
KILAUEA MILITARY CAMP	100	80	180	06/01/2003
LANAI	400	148	548	06/01/2004
LUALUALEI NAVAL MAGAZINE	129	91	220	06/01/2004
MCB HAWAII	129	91	220	06/01/2004
MOLOKAI	93	91	184	06/01/2004
NAS BARBERS POINT	129	91	220	06/01/2004
PEARL HARBOR [INCL ALL MILITARY]	129	91	220	06/01/2004
SCHOFIELD BARRACKS	129	91	220	06/01/2004
WHEELER ARMY AIRFIELD	129	91	220	06/01/2004
[OTHER]	72	61	133	01/01/2000
JOHNSTON ATOLL				
JOHNSTON ATOLL	0	14	14	05/01/2002
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	150	47	197	02/01/2000
NORTHERN MARIANA ISLANDS				
ROTA	129	90	219	09/01/2004

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SAIPAN	121	92	213	09/01/2004
TINIAN	85	70	155	09/01/2004
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	98	83	181	08/01/2003
12/15 - 04/14	135	87	222	08/01/2003
ST. JOHN				
04/15 - 12/14	110	91	201	08/01/2003
12/15 - 04/14	185	98	283	08/01/2003
ST. THOMAS				
04/15 - 12/14	163	95	258	08/01/2003
12/15 - 04/14	220	99	319	08/01/2003
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

L. M. BYNUM
Alternate OSD Federal Register Liaison Officer
Department of Defense
August 30, 2004

[FR Doc. 04–20114 Filed 9–2–04; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Portable Thermocyler

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 10/668,365 entitled "Portable Thermocycler," filed September 24, 2003. Foreign rights are also available (PCT/US03/29749). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to a portable thermocycler having a unique geometric configuration, which allows the device to be made durable, compact and adapted for field-use. In general, the device includes a case, a rotary plate having a plurality of constant temperature heating blocks and a plurality of sample wheels, wherein the wheels are rotatable and pivotable to allow a plurality of reaction vessels, organized in cassettes, to be moved into contact with the heating blocks for heat transfer applications.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 04–20112 Filed 9–2–04; 8:45 am]

BILLING CODE 3710–08–M

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 October 4, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

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: August 31, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: Extension.

Title: GEPA Section 427 Guidance for All Grant Applications.

Frequency: One-time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 21,200.

Burden Hours: 31,800.

Abstract: In compliance with section 427 of the General Education Provisions Act (GEPA), as amended by Public Law 103–282, all applicants for grant awards made by the U.S. Department of Education are required to describe in their applications the steps they propose to take to ensure equitable access to, and equitable participation in, the proposed grant activities conducted with federal funds. The Department has developed a single document that provides common guidance for all competitive and formula grant applicants.

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 2568. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. 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 Sheila Carey at her e-mail address *Sheila.Carey@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. E4–2071 Filed 9–2–04; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Notice Reopening Application Deadline Dates for the Student Support Services (SSS) Program

SUMMARY: The Secretary reopens the deadline dates listed in the sections entitled *Dates and IV. Application and Submission Information, 3. Submission Dates and Times,* as published in the **Federal Register** on July 8, 2004 (69 FR 41235) for the submission of applications from applicants in certain nationally declared disaster areas. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants who have been affected by severe weather conditions in certain counties in Florida and in the Commonwealth of the Northern Mariana Islands. The reopening of these deadline dates is intended to help the potential applicants compete fairly with other applicants under these competitions.

Eligibility: The new deadline date will apply to you if you are a potential

applicant from The Commonwealth of the Northern Mariana Islands, or from a county on the following list. The President has declared a major disaster for the following counties in Florida as a result of Hurricane Charley and Tropical Storm Bonnie.

Counties: Brevard, Charlotte, Collier, DeSoto, Dixie, Duval, Flagler, Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee, Levy, Manatee, Monroe, Okeechobee, Orange, Osceola, Pasco, Polk, St. Johns, Sarasota, Seminole, and Volusia.

SUPPLEMENTARY INFORMATION: The new deadline date for eligible applicants to transmit applications for this program is September 14, 2004. The deadline date for Intergovernmental Review under Executive Order 12732 remains as originally published.

FOR FURTHER INFORMATION CONTACT: Deborah I. Walsh or Dorothy Marshall, U.S. Department of Education, 1990 K Street, NW., suite 7000, Washington, DC 20006–8510. Telephone: (202) 502–7600 or by e-mail: *TRIO@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed in this section.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.htm.*

Dated: September 1, 2004.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 04–20196 Filed 9–2–04; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Overview Information; Technological Innovation and Cooperation for Foreign Information Access; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.337A.

DATES: *Applications Available:* September 14, 2004.

Deadline for Transmittal of Applications: November 17, 2004.

Deadline for Intergovernmental Review: January 17, 2005.

Eligible Applicants: Institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries may apply.

Estimated Available Funds: The Administration has requested $1,700,000 for this program for FY 2005. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $170,000.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technological Innovation and Cooperation for Foreign Information Access (TICFIA) Program is to support projects that will develop innovative techniques or programs using new electronic technologies to collect information from foreign sources. Grants will be made to access, collect, organize, preserve, and widely disseminate information on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

Program Authority: 20 U.S.C. 1126.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99.

As there are no program-specific regulations, we encourage each potential applicant to read the authorizing statute for the TICFIA program in section 606 of title VI, part A, of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1126.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $1,700,000 for this program for FY 2005 The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress awards funds for this program.

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $170,000.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries may apply.

2. *Cost Sharing or Matching:* The matching requirement is described in section 606(d) of the HEA. The statute states that the Federal share of the total cost of carrying out a program supported by a grant under this program shall not exceed 66⅔ percent. The non-Federal share of such costs may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

IV. Application and Submission Information

1. *Address to Request Application Package:* Mrs. Susanna Easton, International Education Programs

Service, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8521. Telephone: (202) 502–7628 or by e-mail: *susanna.easton@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 40 pages, using the following standards:

• A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures and graphs.

• Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, and graphs.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract or the appendices. However, you must include your complete response to the selection criteria in the application narrative.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:* Applications Available: September 14, 2004.

Deadline for Transmittal of Applications: November 17, 2004.

We do not consider an application that does not comply with the deadline requirements.

We are requiring that applications for grants under this program be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. For information (including dates and times) about how to submit your application electronically through the e-GRANTS system or to request a waiver of the electronic submission requirement, please refer to Section IV.6. *Other Submission Requirements* in this notice.

Deadline for Intergovernmental Review: January 17, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* We are requiring that applications for grants under this program be submitted electronically, unless the applicant requests a waiver of this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Technological Innovation and Cooperation For Foreign Information Access Program—CFDA Number 84.337A must be submitted electronically using e-Application available through the Department's e-GRANTS system. The e-GRANTS system is accessible through its portal page at: *http://e-grants.ed.gov*.

Unless a waiver of the electronic submission requirement has been requested by the applicant in accordance with the procedures in this section, all portions of the application must be submitted electronically.

If you are unable to submit an application through the e-GRANTS system, you must submit a written request for a waiver of the electronic submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. You should address this request to: Mrs. Susanna Easton, International Education Programs Service, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8521. Please submit the request no later than two weeks before the application deadline date. Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application in accordance with the mail or hand delivery instructions described in this notice. The paper application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your application.

When using e-Application to complete the application, you will be entering data online. Do not e-mail an electronic copy of any part of a grant application to us. The data that is entered online will be saved into a database.

If you participate in e-Application, please note the following:

• You must submit the grant application electronically through the Internet using the software provided on the e-Grants Web site (*http://e-grants.ed.gov*) by 4:30 p.m., Washington, DC time, on the application deadline date. The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and after 7 p.m. on Wednesdays for maintenance, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.

• You will not receive additional point value because you submit the application in electronic format, nor will we penalize you if you request a waiver and submit the application in paper format because you were prevented from submitting the application electronically as required.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424) and all necessary assurances and certifications.

• Your e-Application must comply with any page limit requirements described in this notice.

• After you submit your application to the Department, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

• Within three working days after you submit your electronic application, you must fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The applicant's Authorizing Representative must sign this form.

3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424. Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. The applicant's Project Director is a registered user of e-Application and has initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-GRANTS help desk at 1–888–336–8930.

b. *Submission of Paper Applications by Mail.*

If you have requested a waiver of the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your paper application to the Department. The original and two copies of the application must be mailed on or before the application deadline date to the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.337A), 400 Maryland Avenue, SW., Washington, DC 20202.

You must show proof of mailing consisting of one of the following:

1. A legibly dated U.S. Postal Service Postmark;

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

3. A dated shipping label, invoice, or receipt from a commercial carrier; or

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If you mail the application through the U.S. Postal Service, please note that we do not accept either of the following as proof of mailing:

1. A private metered postmark, or

2. A mail receipt that is not dated by the U.S. Postal Service. If your application is post marked after the application deadline date, we will notify you that we will not consider the application.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you have requested a waiver of the electronic submission requirement, you (or a courier service) may deliver the paper application to the Department by hand. The original and two copies of your application must be hand-delivered on or before the application deadline date to the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.337A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays. A person delivering an application must show identification to enter the building.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

1. You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424 (exp. 11/30/2004)) the CFDA number—and suffix letter, if any—of the competition under which you are submitting the application.

2. The Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within 15 days from the mailing of your application, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program from EDGAR (34 CFR 75.210) are as follows: (a) Meeting the purpose of the authorizing statute (20 points), (b) need for project (10 points), (c) significance (12 points), (d) quality of the project design (12 points), (e) quality of key personnel (8 points), (f) quality of project personnel (6 points), (g) adequacy of resources (12 points), (h) quality of the management plan (10 points), (i) quality of the project evaluation (10 points).

Note: Applicants should address these selection criteria only in the context of the program requirements in section 606 of the HEA.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The applicant is required to use the electronic data instrument EELIAS to complete the final report.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Mrs. Susanna Easton, International Education Programs Service, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8521. Telephone: (202) 502–7628 or by e-mail: *susanna.easton@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on

request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: August 31, 2004.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. E4–2070 Filed 9–2–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation, (National Committee); Notice of Meeting Changes

AGENCY: National Committee on Foreign Medical Education and Accreditation, Department of Education.

SUMMARY: This notice advises interested parties of changes concerning the upcoming meeting of the National Committee and amends information provided in the original meeting notice published in the July 23, 2004 **Federal Register** (69 FR 43974).

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie LeBold, the Executive Director of the National Committee on Foreign Medical Education and Accreditation, U.S. Department of Education, room 7007, MS 7563, 1990 K St., NW., Washington, DC 20006, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The changes to the agenda are as follows: (1) The first day of the National Committee meeting, originally scheduled from 9 a.m. until approximately 4:45 p.m. on Thursday, September 16, 2004, will now be scheduled from 8:30 a.m. until approximately 5 p.m. on that day.

(2) The second day of the National Committee meeting, originally scheduled from 8:30 a.m. until approximately 11:30 a.m. on Friday, September 17, 2004, will now be scheduled from 8 a.m. until approximately noon on that day.

(3) Liberia, which was originally scheduled for review during the National Committee's September 2004 meeting, will be postponed for review until the spring 2005 meeting.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Authority: 5 U.S.C. Appendix 2.

Dated: August 30, 2004.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 04–20111 Filed 9–2–04; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: Election Assistance Commission.

ACTION: Notice of public meeting.

DATE AND TIME: Monday, September 13, 2004, 10 a.m.–12 Noon

PLACE: U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 1100, Washington, DC 20005, (Metro Shop: Metro Center).

AGENDA: The Commission will receive updates and reports on the following: Title II Requirements Payments Update; Military and Overseas Voters Best Practice Report; HAVA College Program Update; Polling Place Access for Individuals with Disabilities Update—U.S. Department of Health and Human Services; National Voter Registration Week Kickoff; EAC Management Update. The Commission will also receive the following presentation: National Poll Worker Initiative Panel Presentation. Panelists will include Ms. Rebecca Vigil-Giron—Secretary of State of New Mexico and President of the National Association of Secretaries of State (NASS); Ms. Barbara Jackson, Election Director, Baltimore City, Maryland; Ms. Rose MarcAntonio, Poll Worker, Savannah, Georgia; Ms. Nancy Tate, Executive Director, League of Women Voters of the U.S.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Gracia M. Hillman,

Vice-Chair, U.S. Election Assistance Commission.

[FR Doc. 04–20233 Filed 9–1–04; 1:02 pm]

BILLING CODE 6820–YN–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–10–000 et al.]

Standards of Conduct for Transmission Providers et al.; Notice of Proposed Changes in FERC Gas Tariff

August 27, 2004.

In the matter of: RM01–10–000, RP04–469–000, RP04–473–000, RP04–474–000, RP04–487–000, RP04–497–000, RP04–477–000, RP04–479–000, RP04–480–000, RP04–494–000, RP04–481–000, RP04–483–000, RP04–489–000, RP04–486–000, RP04–485–000; Standards of Conduct for Transmission Providers, Algonquin Gas Transmission, LLC, East Tennessee Natural Gas, LLC, Egan Hub Storage, LLC, Florida Gas Transmission Company, Gulfstream Natural Gas System, L.L.C., Maritimes & Northeast Pipeline, L.L.C., Panhandle Eastern Pipe Line Company, LP, Sea Robin Pipeline Company, Southern Natural Gas Company, Southwest Gas Storage Company, Texas Eastern Transmission, LP, Transwestern Pipeline Company, Trunkline Gas Company, LLC, Trunkline LNG Company, LLC.

Take notice that on August 20, 23, and 24, 2004, the above-referenced pipelines tendered for filing their tariff sheets respectively, in compliance with the Commission's Orders pertaining to [1]

[1] *Standards of Conduct for Transmission Providers*, 68 FR 69134 (December 11, 2003), III

Continued

Standards of Conduct regulations pursuant to part 358 of the Commission's regulations, 18 CFR part 358.

Any person desiring to intervene or to protest said filings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

Anyone filing an intervention or protest must file a separate motion to intervene or protest in each docket.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2057 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

FERC Stats. & Regs., ¶ 31,155 (November 25, 2003) ("Order No. 2004" or Final Rule"); order on reh'g and clarification (Order No. 2004–A), 107 FERC ¶ 61,032 (2004), order on reh'g and clarification, 108 FERC ¶ 61,118 (2004) (Order No. 2004–B).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Proposed Changes in FERC Gas Tariff

August 30, 2004.

Algonquin Gas Transmission, LLC

[Docket No. RP04–468–000]

Algonquin Gas Transmission, LLC

[Docket No. RP04–470–000]

East Tennessee Natural Gas, LLC

[Docket No. RP04–471–000]

East Tennessee Natural Gas, LLC

[Docket No. RP04–472–000]

Egan Hub Storage, LLC

[Docket No. RP04–475–000]

Maritimes &Northeast Pipeline, LLC

[Docket No. RP04–476–000]

Maritimes & Northeast Pipeline, LLC

[Docket No. RP04–478–000]

Texas Eastern Transmission, LP

[Docket No. RP04–482–000]

Texas Eastern Transmission, LP

[Docket No. RP04–484–000]

Take notice that on August 20, 2004, the above-referenced pipelines tendered for filing their respective tariff sheets, all with an effective date of September 22, 2004.

The pipelines states that the purpose of their filings is to modify certain tariffs in their current tariffs to implement changes to the procedures for obtaining access to the LINKr Customer Interface System, which is available on their internet web site.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

Anyone filing an intervention or protest must file a separate motion to intervene or protest in each docket.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2062 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[TS04–76–001, et al.]

Notice of Filing; American Transmission Company, et al.

August 2, 2004.

Equitrans, LP [TS04–270–000]
Granite State Gas Transmission, Inc. [TS04–150–000]
High Island Offshore System [TS04–262–000]
Kinder Morgan Pipelines [TS04–271–000]
Kinder Morgan Pipelines [TS04–272–000]
Northern Border Pipeline Company [TS04–208–000]
Midwestern Gas Transmission Company [TS04–209–000]
Petal Gas Storage LLC [TS04–263–000]
Shell Offshore, Inc. and Shell Gulf of Mexico, Inc. [TS04–273–000]
Shell Gas Transmission LLC [TS04–274–000]
Venice Gathering System, LLC [TS04–164–000]
Viking Gas Transmission Company [TS04–212–000]

The above-referenced Transmission Providers[1] have filed motions

[1] Northern Border Pipeline Company, Midwestern Gas Transmission Company and Viking Gas Transmission filed on February 9, 2004, respectively. The other Transmission Providers

requesting a full or partial waiver or exemption from the requirements of Order No. 2004. FERC Stats. & Regs. ¶ 31,355 (2003). Interested parties may file a petition to intervene in each individual docket.

Any person desiring to intervene or to protest each filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in each individual proceeding. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. These filings are available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: August 17, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2049 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–115]

ANR Pipeline Company; Notice of Negotiated Rate

August 27, 2004.

Take notice that on August 24, 2004, ANR Pipeline Company (ANR) tendered for filing its Negotiated Rate Tariff Filing. ANR states that it is submitting this filing in compliance with the Commission's Order authorizing ANR's WestLeg Project requiring ANR to file the applicable negotiated rate agreements.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2064 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–129–000]

Central Iowa Power Cooperative v. Midwest Independent Transmission System Operator, Inc.; Notice of Complaint

August 27, 2004.

Take notice that on August 26, 2004, Central Iowa Power Cooperative filed a formal complaint against the Midwest Independent Transmission System Operator, Inc. pursuant to 18 CFR 385.206, alleging that the Midwest Independent Transmission System Operator, Inc. failed to properly apply the Midwest ISO's OATT with regard to its use of intervening transmission systems.

Central Iowa Power Cooperative certifies that copies of the complaint were served on the contacts for Midwest Independent Transmission System Operator, Inc. as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

listed in the caption filed between June 17 and July 27, 2004.

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern standard time on September 15, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2050 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–403–000]

Columbia Gas Transmission Corporation; KO Transmission Company; Notice of Application

August 27, 2004.

On August 24, 2004, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue S.E., Charleston, West Virginia 25314 and KO Transmission Company (KO), 139 East Fourth Street, Cincinnati, Ohio 45202, filed an application in the above referenced docket, pursuant to Section 7(b) and 7(c) of the Natural Gas Act (NGA), for Columbia to abandon by sale to KO an undivided interest in its E-System. KO seeks authority to acquire the undivided interest that Columbia is selling. The facilities extend from an interconnection with Columbia Gulf in Menifee County, Kentucky to an interconnection with KO in Bracken County, Kentucky. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "e-Library" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

Any questions regarding this application should be directed to Fredric K. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325–1273; telephone 304–357–2359, fax 304–357–3206.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 17, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2065 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–989–003]

Green Mountain Power Corporation; Notice of Filing

August 30, 2004.

Take notice that on August 26, 2004, Green Mountain Power Corporation (GMP) tendered for filing a supplement to its triennial updated market power report stating the reasons why it should still be considered eligible to sell power to wholesale purchasers at market-based rates.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern standard time on September 3, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2051 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–038]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

August 27, 2004.

Take notice that on August 23, 2004, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Sub Original Sheet No. 8L and Second Sub Original Sheet No. 8M, with an effective date of October 1, 2003. Gulfstream states that the filing is being made in compliance with the Commission's June 23, 2004 Order issued in the above-captioned docket.

Gulfstream states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2059 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–397–001; RP02–361–039]

Gulfstream Natural Gas System L.L.C.; Notice of Compliance Filing

August 27, 2004.

Take notice that, on August 25, 2004, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 11, 2004:

Sub First Revised Sheet No. 302
Sub First Revised Sheet No. 304
Sub First Revised Sheet No. 311
Sub First Revised Sheet No. 313
Sub First Revised Sheet No. 322
Sub First Revised Sheet No. 343

Gulfstream states that the filing is being made in compliance with an order by the Commission's Division of Tariffs and Market Development–South, issued on August 10, 2004, in Docket Nos. RP04–397–000 and RP02–361–035.

Gulfstream states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2061 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES04–45–000]

MidAmerican Energy Company; Notice of Application

August 27, 2004.

Take notice that on August 23, 2004, MidAmerican Energy Company (MidAmerican) submitted an application pursuant to section 204 of the Federal Power Act requesting that the Commission authorize the issuance of long-term debt in the form of bonds, notes and guarantees in an amount not to exceed $425 million.

MidAmerican also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The

Commission strongly encourages electronic filings.

Comment Date: 5 p.m. eastern standard time on September 16, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2053 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–262–005]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

August 27, 2004.

Take notice that on August 24, 2004, Natural Gas Pipeline Company of America (Natural) filed as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, a Substitute Revised Sheet No. 226, with an effective date of October 1, 2004.

Natural states that the filing is being made to comply with the Commission's Order issued on August 9, 2004, in the above-referenced proceeding. Natural further states that the change required by the Order relates to a prior compliance filing made by Natural, involving reservation charge credits.

Natural states that copies of its filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2060 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–498–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 2004.

Take notice that on August 25, 2004, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets to be effective November 1, 2004:

First Revised Sheet No. 263F
First Revised Sheet No. 263G
Eighth Revised Sheet No. 263H
Seventh Revised Sheet No. 263H.1
First Revised Sheet No. 263I

Northern states that Tariff Sheet Nos. 263H and 263H.1 reflect the sourcers' flow obligation as a result of the Appendix B customers' election to source or buyout of their flow obligation based on section 29(C)2 of Northern's tariff. In addition, Northern states that it is updating the list of company names on the referenced tariff sheets.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2063 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–151–000, et al.]

Crescent Ridge LLC, et al.; Electric Rate and Corporate Filings

August 27, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Crescent Ridge LLC

[Docket Nos. EC04–151–000 and ER02–2310–002]

Take notice that on August 24, 2004, Crescent Ridge LLC (Crescent) filed an application pursuant to section 203 of the Federal Power Act and a notice of status change, seeking authorization for a transaction that would result in the transfer of indirect control of certain jurisdictional rate schedule facilites assocated with Cresent's planned 54.5 megawatt wind farm located in Bureau County, Illinois and jurisdictional books and records.

Crescent states that the transaction will have no effect on competition, rates or regulation and is in the public interest.

Comment Date: 5 p.m. Eastern Time on September 14, 2004.

2. Calpine Fox LLC

[Docket No. EG04–96–000]

Take notice that on August 23, 2004, Calpine Fox LLC (Calpine), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Calpine, a Wisconsin limited liability company, states that it proposes to operate an approximately 600 megawatt natural gas-fired combined cycle electric generating facility located in the Town of Kaukauna, Outagamie County, Wisconsin. Calpine further states that copies of the application were served upon the United States Securities and Exchange Commission and Public Service Commission of Wisconsin.

Comment Date: 5 p.m. Eastern Time on September 13, 2004.

3. Fox Energy Company LLC

[Docket No. EG04–97–000]

Take notice that on August 23, 2004, Fox Energy Company LLC (Fox Energy) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Fox Energy, a Wisconsin limited liability company, states that it proposes to own an approximately 600 megawatt natural gas-fired combined cycle electric generating facility located in the Town of Kaukauna, Outagamie County, Wisconsin. Fox Energy further states that copies of the application were served upon the United States Securities and Exchange Commission and Public Service Commission of Wisconsin.

Comment Date: 5 p.m. Eastern Time on September 13, 2004.

4. Sulphur Springs Valley Electric Cooperative, Inc,

[Docket No. EL04–128–000]

Take notice that on August 20, 2004, Sulphur Springs Valley Electric Cooperative, Inc. filed a request for waiver of the requirements of Order No. 888, Order No. 889 and Order No. 2004.

Comment Date: 5 p.m. Eastern Time on September 10, 2004.

5. Allegheny Power System Operating Companies: Monongahela Power Company, Potomac Edison Company, and West Penn Power Company, All d/b/a Allegheny Power; PHI Operating Companies: Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; Baltimore Gas and Electric Company; Jersey Central Power & Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Rockland Electric Company; and UGI Utilities, Inc.; (Consolidated) Allegheny Power System Operating Companies; Monongahela Power Company, Potomac Edison Company, and West Penn Power Company, All d/b/a Allegheny Power; PJM Interconnection, LLC

[Docket Nos. ER04–156–005, EL04–41–003, RT01–10–000 and RT01–98–000]

Take notice that on August 24 2004, the PJM Transmission Owners, on behalf of the Allegheny Power System Operating Companies: (Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, all doing business as Allegheny Power); the PHI Operating Companies (Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company), Baltimore Gas and Electric Company; Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; PECO Energy Company; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Rockland Electric Company; and UGI Utilities, Inc., tendered for filing replacement tariff sheets for Schedule 12A (cancellation of transmission enhancement charges) of the PJM Open Access Transmission Tariff, in compliance with the Order Accepting Settlement Agreement, 108 FERC ¶ 61,167 (2004), issued August 9, 2004.

Allegheny Power System Operating Companies states that copies of the filing were served on those persons designated on the service lists in the above-captioned dockets.

Comment Date: 5 p.m. Eastern Time on September 14, 2004.

6. Reliant Energy Aurora, LP

[Docket No. ER04–1066–001]

Take notice that on August 24, 2004, Reliant Energy Wholesale Generation, LLC (REWG) submitted a substitute rate sheet to its rate schedule filed July 30, 2004, for a proposed reactive support and voltage control from generation sources service (reactive service) for the Aurora generation facility located in Aurora DuPage County, Illinois. REWG's filing substitutes REWG's affiliate, Reliant Energy Aurora, LP, for REWG as the party-in-interest with respect to the reactive service rate schedule. REWG requests an effective date of September 1, 2004.

Comment Date: 5 p.m. Eastern Time on September 14, 2004.

7. Rolling Hills Generating, L.L.C.

[Docket No. ER04–1098–001]

Take notice that on August 24, 2004, Rolling Hills Generating, L.L.C. (Rolling Hills) pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d, and Part 35 of the Commission's regulations, 18 CFR Part 35, submitted for filing a supplement in further support of its August 4, 2004 reactive power service filing. Rolling Hills requests an effective date of October 1, 2004.

Rolling Hills states that it has provided copies of the filing to the designated corporate officials and or representatives of AEPSC and the PJM and the Public Utilities Commission of Ohio, as well as the official service list in this proceeding, if applicable.

Comment Date: 5 p.m. Eastern Time on September 3, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the

"eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2048 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

August 27, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 2514–093.

c. *Date Filed:* July 27, 2004.

d. *Applicant:* Appalachian Power Company, Virginia.

e. *Name of Project:* Byllesby/Buck Project.

f. *Location:* The project is located on the New River in Carroll County, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Frank M. Simms, American Electric Power, P.O. Box 2021, Roanoke, VA 24022–2121

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Eric Gross at (202) 502–6213, or e-mail address: *eric.gross@ferc.gov.*

j. *Deadline for filing comments and or motions:* September 27, 2004.

k. *Description of Request:* In an April 15, 2004, order the Commission approved Appalachian Power Company's (Appalachian) request for a temporary variance to their license to allow them to lower the reservoir at the Byllesby Development by up to 11 feet below the licensed minimum elevation. The variance was needed to perform routine maintenance on the spillway and tainter gates and was planned to occur from May 1 through October 15 in 2004 and 2005. In their July 27, 2004, filing Appalachian requests to revise the dates that the spillway and tainter gate maintenance take place to July 25 through October 15 in 2004 and May 1 through October 15 in 2006. The reservoir will not be lowered in 2005.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register on-line at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free 1–866–208–3676, or for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission (see items o below).

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2054 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Interconnection for Wind Energy and Other Alternative Technologies [Docket No. PL04–15–000]; Standardization of Small Generator Interconnection Agreements and Procedures [Docket No. RM02–12–000]; Standardizing Generator Interconnection Agreements and Procedures; [Docket Nos. RM02–1–001, RM02–1–005]; Notice of Technical Conference

August 27, 2004.

Take notice that the Federal Energy Regulatory Commission will host a technical conference on Friday, September 24, 2004 to discuss issues raised by a petition for rulemaking submitted by the American Wind Energy Association (AWEA) related to the adoption of certain requirements for the interconnection of large wind generators. The conference will be held at the Commission's Washington, DC headquarters, 888 First St., NE., 20426. The event is scheduled to begin at 10:30 a.m. and end at approximately 4:30 p.m. (e.s.t.) in the Commission Meeting Room, Room 2–C.

The goal of the technical conference is to discuss the technical requirements for the interconnection of large and small wind generators and other alternative technologies, and the need for creating specific requirements for their interconnection to the grid. These issues include the use of non-synchronous generator and other alternative technologies that respond differently to grid disturbances and may have different effects on the grid than large, synchronous generators. AWEA's request for technical consideration is

contained in a filing it made on May 20, 2004 in Docket No. RM02–1–005.

The conference is open for the public to attend, and registration is not required; however, in-person attendees are asked to register for the conference on-line by close of business on Wednesday, September 22, 2004 at *http://www.ferc.gov/whats-new/registration/wind-0924-form.asp.*

Parties interested in speaking at the conference should file their requests to speak no later than close of business on September 10, 2004. An on-line form requesting to speak is available at: *http://www.ferc.gov/whats-new/registration/speaker-form.asp.*

Topics to be discussed at this conference may include: a discussion of the AWEA proposal; the impact of the proposal on issues of reliability; the specific requirements of small wind generators; and the technical and operational needs of other alternative technologies.

Transcripts of the conference will be available for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646) on the next business day. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on "FERC."

For more information about the conference, please contact Bruce Poole at 202–502–8468 or at *bruce.poole@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E4–2056 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL04–13–000]

Reliability Readiness Reviews; Notice of Technical Conference

August 27, 2004.

Take notice that the Federal Energy Regulatory Commission will host a technical conference on Wednesday, September 29, 2004 to discuss Reliability Readiness Reviews that are being conducted by the North American Electric Reliability Council (NERC). The workshop will be held at the Commission's Washington, DC headquarters, 888 First St., NE, 20426. The workshop is scheduled to begin at 9 a.m. and end at approximately 12:30 p.m. (EST) in the Commission Meeting Room, Room 2–C. The Commissioners may attend and participate.

The goal of the technical conference is to offer a public progress report on the Reliability Readiness Reviews conducted by NERC, in which FERC staff participated, since the August 14, 2003 blackout. Audit reports are available on the NERC Web site. The conference will report on what these reviews reveal about the overall "readiness" of the nation's reliability coordinators and control areas, and the strengths and weaknesses of the review process as implemented to date. A draft agenda is included as Attachment A to this Notice. The final agenda will be made available at a later time.

The conference is open for the public to attend, and preregistration is not required. There will be no on-line registration established for this event; on-site attendees may simply attend on the day of the event.

Transcripts of the conference will be available for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646) the next business day. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on "FERC."

For more information about the conference, please contact Donald Lekang at 202–502–8127, *donald.lekang@ferc.gov* or Sarah McKinley at 202–502–8004, *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

Attachment A

Reliability Readiness Reviews, September 29, 2004, Agenda

9 a.m.—Introductions

9:15 a.m.—Reliability Assessment
- Audit Results
- Actual Grid Performance

10 a.m.—Reliability/Capability Trends and Patterns
- Tools
- Strengths and weaknesses
- Identifying and Institutionalizing Best Practices

11 a.m.—The Audit Process
- What Worked
- What Didn't Work
- What's Changing

12 p.m.—Stakeholder and Audience Participation

12:30 p.m.—Adjourn

[FR Doc. E4–2055 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER04–688–000; ER04–689–000; ER04–690–000; ER04–693–000]

Pacific Gas and Electric Company; Notice of Technical Conference

August 27, 2004.

Parties are invited to attend a technical conference in the above-referenced Pacific Gas and Electric Company (PG&E) proceedings on August 31–September 1, 2004, at Commission Headquarters, 888 First Street, NE., Washington, DC 20426. The technical conference will be held in Conference Room 3M4–A/B on both days. The August 31st technical conference will be held from 9 a.m. until 5 p.m. (e.s.t.). The September 1st technical conference will be held from 9 a.m. until 3 p.m. Arrangements have been made for parties to listen to the technical conference by telephone.

The purpose of the conference is to identify the issues raised in these proceedings, develop information for use by Commission staff in preparing an order on the merits, and to facilitate any possible settlements in these proceedings. The parties will discuss, among other things, the following issues related to the unexecuted agreements filed by PG&E in the above-referenced dockets: (1) The Parallel Operation Agreement between PG&E and Western

Area Power Administration (WAPA) (PG&E Original Rate Schedule FERC No. 228), (2) the Interconnection Agreement, (3) the Wholesale Distribution Tariff Service Agreement and (4) related issues to these Agreements.

Questions about the conference and the telephone conference call arrangements should be directed to: Julia A. Lake, Office of the General Counsel—Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8370, *Julia.lake@ferc.gov*

Magalie R. Salas,

Secretary.

[FR Doc. E4–2052 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

August 27, 2004.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866)208–3676, or for TTY, contact (202)502–8659.

Exempt

Docket number	Date filed	Presenter or requester
1. CP04–41–000, CPO4–36–000	8–18–04	Raymond E. Gallison, Jr.
2. CP04–223–000, CP04–293–000	8–11–04	W. Mark Russo, Christopher M. Mulhearn.
3. CP04–391–000	8–24–04	Wallace Danny Laffoon.
4. PF04–7–000	8–24–04	David Swearingen.
5. Project No. 1971–079	8–24–04	Michael J. Bart, P.E.
6. Project No. 1971–079	8–24–04	Keith Kirkendall.
7. Project No. 1971–079	8–24–04	Dorothy Mason.
8. Project No. 1971–079	8–24–04	James C. Miller.
9. Project No. 1971–079	8–26–04	Dorothy Mason.
10. Project No. 2064–000	8–13–04	Vince Yearick.
11. Project No. 2064–000	8–24–04	Steve Kartalia.
12. Project No. 12063–000	8–24–04	Robert Easton.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2058 Filed 9–2–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6655–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 2, 2004 (69 FR 17403).

Draft EISs

ERP No. D–FTA–J54001–UT Rating EC2, Weber County to Salt Lake City Commuter Rail Project, Proposes a Commuter Rail Transit Service with Nine Stations between Salt Lake City and Peasant View, Funding, Weber, Davis and Salt Lake Counties, UT.

Summary: EPA expressed environmental concerns because the draft EIS: does not analyze a full range of alternatives; does not disclose enough of the CWA Section 404 process, but defers the process until later; does not disclose the effects of additional diesel emissions from locomotives on air quality; and does not disclose mitigation for the preferred alternative, particularly for wetlands, riparian woodland and air quality impacts from construction.

ERP No. D–NOA–E91015–00 Rating LO, Reef Fish Fishery Management Plan (FMP) Amendment 23, To Set Vermilion Snapper Sustainable Fisheries Act Targets and Thresholds and to Establish a Plan to End Overfishing and Rebuild the Stock, Implementation, Gulf of Mexico.

Summary: EPA has no objections to the proposed action.

ERP No. DS–BLM–K60105–CA Rating EC2, U.S. Army National Training Center, Proposed Addition of Maneuver Training Land at Fort Irwin, Implementation, San Bernardino County, CA.

Summary: EPA raised environmental concerns regarding impacts and mitigation for construction-related air emission, and properly reporting the release of oil or a hazardous substance into the environment.

ERP No. DS–NOA–A91063–00 Rating LO, Monkfish Fishery Management Plan (FMP) Amendment 2, Implementation, Updated and Additional Information, New England and Mid-Atlantic Coast.

Summary: EPA has no objections to the proposed action.

Final EISs

ERP No. F–AFS–J65414–UT, State of Utah School and Institutional Trust Lands Administration (SITLA) Access Route on East Mountain, National Forest System Lands Administered by Mantila Sal National Forest, Ferron/Price Ranger District, Emery Counties, UT.

Summary: EPA continues to express environmental concerns with the potential for adverse impacts to water quality, soils and fish and wildlife, from the logging, exploratory wells and coal exploration as proposed in the selected alternative.

ERP No. F–AFS–L65443–OR, Biscuit Fire Recovery Project, Various Management Activities Alternatives, Implementation, The Rogue River and Siskiyou National Forests, Josephine and Curry Counties, OR.

Summary: EPA continues to express the following environmental concerns: (1) Potential adverse impacts to large-scale postfire logging on sediment loads to impaired streams; (2) detrimental effects to key watersheds; (3) loss of large woody debris to streams; and (4) adverse effects on riparian habitat and inventoried roadless areas.

ERP No. F–BIA–J60021–UT, Tekoi Balefill Project on the Skull Valley Band of Goshute Indians Reservation, Approval of Long-Term Lease of Indian Land for a Commercial Solid Waste Disposal Facility, Salt Lake City, Tooele County, UT.

Summary: EPA continues to have concerns regarding the Tribe's oversight and regulation of the landfill to ensure that environmental impacts are controlled and/or mitigated.

ERP No. F–DOE–L91018–OR, Northeast Oregon Hatchery Program, Grande Ronde—Imnaha Spring Chinook Hatchery Modification and Modernization of Two Existing Hatchery Facilities and Construction of Three New Auxiliary Hatchery Facilities, Wallowa County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–E91014–00, Generic Essential Fish Habitat Amendment to the Fishery Management Plans of the Gulf of Mexico (GOM) for Shrimp, Red Drum, Reef Fish, Stone Crab, Coral and Coral Reef and Spiny Lobster Fisheries, Implementation, GOM and South Atlantic Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

Summary: EPA supported the NOAA Fisheries designation of EFH for the subject fisheries and suggested strategies to reduce the administrative burden of consultations of EFH designation.

ERP No. F–NOA–L91017–00, Programmatic EIS—Pacific Salmon Fisheries Management Plan, Off the Coasts of Southeast Alaska, Washington, Oregon and California, and the Columbia River Basin, Implementation, Magnuson-Stevens Act, AK, WA, OR and CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–L91023–00, Pacific Coast Groundfish Fishery Management Plan, Amendment 16–3 Adopts Rebuild Plans for Bocaccio, Cowcod, Widow Rockfish and Yelloweye Rockfish, Maximum Sustainable Yield (MSY), Implementation, WA, OR, ID and CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FB–NOA–A91065–00, Final Rule to Implement Management Measures for the Reduction of Sea Turtle Bycatch and Bycatch Mortality in the Atlantic Pelagic Longline Fishery.

Summary: No formal comment letter was sent to the preparing agency.

Dated: August 31, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–20143 Filed 9–2–04; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6655–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa.* Weekly receipt of Environmental Impact Statements Filed August 23, 2004 Through August 27, 2004 Pursuant to 40 CFR 1506.9.

EIS No. 040406, Draft EIS, NOA, AK, Pribilof Islands Setting for the Annual Subsistence Harvest of Northern Fur Seals, To Determine and Publish the Take Ranges, Pribilof Islands, AK, *Comment Period Ends:* October 19, 2004, *Contact:* Kaja Brix (907) 586–7824. This document is available on the Internet at: *http://www.fakr.noaa.gov.*

EIS No. 040407, Final EIS, NPS, AZ, Petrified Forest National Park General Management Plan Revision, Implementation, Navajo and Apache Counties, AZ, *Wait Period Ends:* October 4, 2004, *Contact:* Suzy Stutzman (303) 987–6671.

EIS No. 040408, Final EIS, SFW, WA, Nisqually National Wildlife Refuge (NWR) Comprehensive Conservation Plan, Habitat Restoration, Refuge Boundary Expansion and Related Environmental and Recreational Opportunities, Approval and Implementation, Puget Sound, Nisqually River Delta, Thornton and Pierce Counties, WA, *Wait Period Ends:* October 4, 2004, *Contact:* Jean Takekawa (360) 753–9467.

EIS No. 040409, Draft EIS, AFS, UT, Reissuance of 10-Year Term Grazing Permits to Continue Authorize Grazing on Eight Cattle Allotments, Permit Reissuance, Fishlake National Forest, Beaver Mountain Tushar Range, Millard, Piute, Garfield, Beaver and Iron Counties, UT, *Comment Period Ends:* October 18, 2004, *Contact:* Dave Grider (435) 865–3731.

EIS No. 040410, Final EIS, NOA, AK, Bering Sea and Aleutian Islands King and Tanner Crab Fisheries and Fishery Management Plan, Implementation, United States Exclusive Economic Zone (EEZ) off Alaska, *Wait Period Ends:* October 4, 2004, *Contact:* Gretchen Harrington (907) 586–7228.

EIS No. 040411, Final EIS, BLM, AK, Alpine Satellite Development Plan, Construction and Operation of Five Oil Production Pads, Associated Well, Roads, Airstrips, Pipelines and Powerlines, Authorization and Permits Issuance, Northeast corner of the National Petroleum Reserve—Alaska, Colville River Delta, North Slope Borough, AK, *Wait Period Ends:* October 4, 2004, *Contact:* Jim Ducker (907) 271–3130.

This document is available on the Internet at: http://www.ak.blm.gov.

EIS No. 040412, Draft EIS, AFS, FL, Ocala National Forest Access Designation Process, Roads and Trails Systems Development, Implementation, Lake, Marion, and Putnam Counties, FL, *Comment Period Ends:* November 1, 2004, *Contact:* Will Ebaugh (850) 523–8557.

This document is available on the Internet at: *http://www.southernregion.fs.fed.us/florida.*

EIS No. 040413, Draft EIS, AFS, OR, West Maurys Fuels and Vegetation Management Project, Prescribed Fire, Commercial and Noncommercial Thinning, Grapple Piling and Hand Piling, Implementation, Lookout Mountain Range District, Ochoco National Forest, Crook County, OR, *Comment Period Ends:* October 19, 2004, *Contact:* Arthur J. Currier (541) 416–6500.

EIS No. 040414, Draft EIS, BPA, WA, Salmon Creek Project, Water Flow Restoration and Streambed Rehabilitation, Providing Passage for Summer Steelhead and Spring Chinook, Funding, Okanogan County, WA, *Comment Period Ends:* October 19, 2004, *Contact:* Donald Rose (503) 230–3796.

Amended Notices

EIS No. 040276, Final EIS, FAA, MN, Flying Cloud Airport Expansion, Extension of the Runways 9R/27L and 9L/27R, Long-Term Comprehensive Development in the City of Eden Prairie, Hennepin County, MN, *Wait Period Ends:* September 16, 2004, *Contact:* Glen Orcult (612) 713–4354. *Revision of FR Notice Published on 08/27/2004:* CEQ Comment Period Extended from 09/01/2004 to 09/16/2004..

EIS No. 040385, Final EIS, AFS, WA, Crystal Mountain Master Development Plan, To Provide Winter and Summer Recreational Use, Special-Use-Permit, Mt. Baker-Snoqualmie National Forest, Silver Creek Watershed, Pierce County, WA, *Wait Period Ends:* September 20, 2004, *Contact:* Larry Donovan (425) 744–3403. *Revision of FR Notice published on 08/20/2004:* Change in Contact Person Telephone Number.

EIS No. 040389, Draft Supplement, FHW, WI, MN, MN–36/WI–64 St. Croix River Crossing Project, Construction of a New Crossing between the Cities of Stillwater and Oak Park Heights in Washington County, MN and the Town of St. Joseph in St. Croix County, WI, Updated and Additional Information, Funding, Washington County, MN and St. Croix County, WI, *Comment Period Ends:* October 6, 2004, *Contact:* Cheryl Martin (651) 291–6120. *Revision of FR Notice Published on 8/20/2004:* Correction of CEQ Comment Period from 10–4–2004 to 10–6–2004.

EIS No. 040398, Final Supplement, EPA, MS, FL, AL, Eastern Gulf of Mexico Offshore Oil and Gas Extraction, Updated Information on Issuance of New National Pollutant Discharge Elimination System General Permit and the Ocean Discharge Criteria Evaluation, MS, AL and FL, *Wait Period Ends:* September 27, 2004, *Contact:* Lena Scott (404) 562–9607. *Revision of FR Notice Published on 08/27/2004:* CEQ Wait Period Ending 09/07/2004 Corrected 09/27/2004.

EIS No. 040400, Final EIS, DOE, WA, BP Cherry Point Cogeneration Project, To Build a 720-megawatt Gas-Fired Combined Cycle Cogeneration Facility, Energy Facility Site Evaluation Council (EFSEC), Whatcom County, WA, *Wait Period Ends:* September 27, 2004, *Contact:* Thomas E. McKinney (503) 230–4749. *Revision of FR Notice Published on 08/27/2004:* CEQ Wait Period Ending 09/07/2004 Corrected to 09/27/2004.

EIS No. 040401, Final EIS, EPA, FL, Palm Beach Harbor Ocean Dredged Material Disposal Site and the Port Everglades Harbor Ocean Dredged Material Disposal Site, Designation, FL, *Wait Period Ends:* September 27, 2004, *Contact:* Christopher McArthur (404) 562–9391. *Revision of FR Notice Published on 8/27/2004:* CEQ Wait Period Ending 9/7/2004 Corrected to 9/27/2004.

EIS No. 040403, Final Supplement, NOA, FL, MS, TX, AL, LA, Reef Fish Fishery Management Plan Amendment 22, To Set Red Snapper Sustainable Fisheries Act Targets and Thresholds, Set a Rebuilding Plan, and Establish Bycatch Reporting Methodologies for the Reef Fish Fishery, Gulf of Mexico, *Wait Period Ends:* September 27, 2004, *Contact:* Dr. Roy E. Crabtree (727) 570–5305. *Revision of FR Notice Published on 8/27/2004:* CEQ Wait Period Ending 9/7/2003 Corrected to 9/27/2004.

Dated: August 31, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–20145 Filed 9–2–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0103; FRL–7673–7]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting and Proposed AEGL Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on September 21-23, 2004, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: 1,1,1-trichloroethane; acetaldehyde; acetone cyanohydrin; chloromethyl methyl ether; cumene; dibromoethane; diketene; disulfur dichloride; ethylene oxide (10 minute AEGL-2 value); hydroxylamine; jet fuel 8; propionaldehyde; propylene oxide; tetranitromethane and vinyl acetate.

Regarding one chemical scheduled for the December, 2004 NAC/AEGL Committee meeting, methylene chloride, the public is requested to provide comment on the Draft Technical Support Document, which is available upon request from the technical information contact (see **FOR FURTHER INFORMATION CONTACT** below). All comments and suggestions including alternative pharmacokinetic and pharmacodynamic modeling for the derived methylene chloride draft provisional AEGL values should be directed to the technical information contact. Any comments should be submitted no later than October 29, 2004. Requests for short presentations regarding methylene chloride AEGL derivation should also be directed to the technical information contact. Proposed AEGL values for methylene chloride are scheduled to be balloted at the December 13-15, 2004 NAC/AEGL Committee meeting currently planned to be held in Research Triangle Park, North Carolina.

DATES: A meeting of the NAC/AEGL Committee will be held from 10:00 a.m. to 5:30 p.m. on September 21, 2004; 8:30 a.m. to 5:30 p.m. on September 22, 2004 and from 8:00 a.m. to 12:00 p.m. on September 23, 2004.

ADDRESSES: The meeting will be held at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Room numbers C5515 1A and 1B.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2004–0103. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for December 13-15, 2004.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: August 30, 2004.

Wendy C. Hamnett,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 04–20138 Filed 9–2–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; FCC 04J–2]

Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In this document, the Federal-State Joint Board on Universal Service seeks comment on issues recently referred to it by the Commission, relating to the high-cost universal support mechanisms for rural carriers and the appropriate rural mechanism to succeed the five-year plan adopted in the *Rural Task Force Order.* By this document, the Joint Board initiates its review. The Federal-State Joint Board on Universal Service invites public comment on whether these rules continue to fulfill their intended purposes, whether modifications are warranted, and if so, how the rules should be modified.

DATES: Comments are due on or before October 15, 2004. Reply Comments are due on or before December 14, 2004.

ADDRESSES: Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. *See* **SUPPLEMENTARY INFORMATION** for additional filing instructions.

FOR FURTHER INFORMATION CONTACT: Ted Burmeister, Attorney, or Sheryl Todd, Management Analyst, Wireline Competition Bureau, Telecommunication Access Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: 1. In this Public Notice, we seek comment on issues recently referred to us by the Commission, relating to the high-cost universal support mechanisms for rural carriers and the appropriate rural mechanism to succeed the five-year plan adopted in the *Rural Task Force Order,* 66 FR 30080, June 5, 2001. In particular, the Commission asked the Joint Board to consider whether a universal service support mechanism for rural carriers based on forward-looking economic cost estimates or embedded costs would most efficiently and effectively achieve the goals set forth in the Telecommunications Act of 1996. The Commission also asked the Joint Board both to revisit the definition

of "rural telephone company" for high-cost universal service support purposes and to consider consolidating multiple study areas within a State. Finally, the Commission requested that the Joint Board consider whether to retain or modify § 54.305 of the Commission's rules, which concerns the amount of universal service support for transferred exchanges. By this Public Notice, the Joint Board initiates its review. As set forth below, we invite public comment on whether these rules continue to fulfill their intended purposes, whether modifications are warranted, and if so, how the rules should be modified.

I. Issues for Comment

2. We seek comment below on the issues referred to us by the Commission in the *Referral Order*, 69 FR 48232, August 9, 2004, and seek further comment on issues from the *Joint Board Recommended Decision on Portability*. We first seek comment regarding whether the Commission should continue to use the statutory definition of "rural telephone company" to determine which carriers are rural carriers for high-cost universal service support purposes. We then seek comment regarding the appropriate structure of universal service support mechanisms in areas served by rural carriers, including the cost basis of support and the method of calculating support. Finally, we seek comment regarding whether the Commission should retain, modify, or eliminate § 54.305 of its rules, which governs high-cost universal service support for transferred exchanges.

A. Definition of "Rural" for Universal Service Purposes

3. We seek comment on whether the Commission should continue to use the statutory definition of "rural telephone company" to determine which carriers are rural carriers for high-cost universal service purposes. In particular, we seek comment on the extent to which each of the four subparts of the definition accurately identifies companies that "generally serve fewer subscribers, serve more sparsely populated areas, and generally do not benefit as much from economies of scale and scope" as the large non-rural carriers. For example, approximately 40 companies serving study areas with more than 100,000 access lines, including one company serving over 2 million access lines, self-certified as rural carriers under subsection 3(37)(D) of the Act. Most of these companies are owned by holding companies that have operations in many States. On the other hand, companies that serve only one study area in one State, but exceed the 100,000 access line threshold in subsection 3(37)(C), are considered to be non-rural carriers.

4. We seek comment on whether the Commission should continue to use subsection 3(37)(D) to identify rural carriers for high-cost universal service purposes despite the anomalies resulting from carriers self-certifying under this test. There being no statutory requirement that the Commission uses the Act's definition of rural telephone company for high-cost universal service purposes, should the Commission simply eliminate this test? This likely would ensure that no study area serving more than 100,000 access lines would be considered "rural." Alternatively, would some other method be preferable? Is there some universal service policy objective that would be served by treating a carrier with more than 100,000 lines as rural when most of those lines are in rural areas? How can we ensure that those policy objectives are met? Should the Commission interpret subsection 3(37)(D) to exclude carriers that are serving areas that are merely separate, but adjacent, communities in an urbanized area?

5. Specifically, could the Commission interpret "communities of more than 50,000" in a way that would prevent rural treatment of urbanized or suburban areas? When the Commission decided to use Census Bureau statistics for legally incorporated localities, consolidated cities, and census-designated places to define communities of more than 50,000, there was no information on the record to indicate that this definition would present any problems in the Commission's determination of a carrier's status as a rural or non-rural company. The Commission declined to adopt an approach proposed by GTE that would have differentiated between lines serving metropolitan statistical areas (MSAs) and those serving rural areas. We seek comment on whether we should use different Census Bureau definitions, such as MSA, urbanized area, or urban cluster, to define "communities of more than 50,000." Would using any of these broader definitions be either under-inclusive or over-inclusive in identifying companies that should be considered as rural for high-cost universal service purposes?

6. We also seek comment more generally on the extent to which the Commission should continue to use the other three parts of the statutory definition. We seek comment on whether the Commission should modify its rural/non-rural definitional framework to permit finer distinctions among carriers of different sizes or characteristics. Would using finer distinctions among carriers better recognize the great diversity among rural telephone companies? Would such distinctions be useful in more effectively targeting universal service support to rural carriers serving the highest cost areas? For example, should the Commission have different high-cost universal service support mechanisms for small, medium, and large size companies? How should the Commission determine carrier size? What other characteristics should the Commission consider in distinguishing among carriers?

7. We seek comment on whether the Commission should continue to categorize carriers based generally upon study area size. Although a carrier's study area generally corresponds to the carrier's entire service territory within a State, for various reasons a carrier may have more than one study area per state. To what extent does a carrier operating multiple study areas in a given State achieve some economies of scale that are not reflected in high-cost support calculations based on separate study areas? To what extent is the fact that a single company currently has multiple study areas within a State inconsistent with the policies underlying the study area freeze? Would considering all of a company's study areas within a State for universal service support purposes better reflect the appropriate economies of scale achieved by the carrier?

8. We seek comment on whether the Commission should consider holding company size, as well as study area size, when identifying companies that generally do not benefit as much from economies of scale and scope as the large non-rural companies. Many rural carriers are the operating subsidiaries of larger holding companies that may provide some economies of scale not realized by other non-affiliated rural carriers. For example, although mid-sized rural telephone holding companies with operations in many States do not have the same buying power as the largest non-rural companies, they likely have greater economies of scale and scope than very small rural companies with only one study area. Should the Commission consider having categories of carriers for high-cost universal service purposes that would take into account all affiliated companies nationwide?

9. If the Commission were to differentiate between small, medium, and large companies for high-cost universal service purposes, how should the Commission define those sizes? Should the Commission consider using

the size categories in subsections 3(37)(B)–(C) of the Act? For example, carriers with fewer than 50,000 lines could be considered small; carriers with more than 50,000 lines, but fewer than 100,000 lines, could be considered medium size; and carriers with more than 100,000 lines could be considered large. To what extent would the size categories depend on whether the Commission is considering study area, statewide operations, or nationwide operations in determining company size? Should size categories include consideration of both study area size and total company size? We invite commenters to propose alternative size categories, and number of categories, that would take into account the significant distinctions and great diversity among rural telephone companies.

10. We seek comment on what carrier characteristics, in addition to company size, the Commission should consider for purposes of determining how high-cost support should be calculated. To what extent should the Commission try to identify carriers that serve rural areas? While the test in subsection 3(37)(A) would exclude carriers serving urbanized areas, the tests in subsections 3(37)(B) and (C) consider only the number of lines. To what extent do these definitions permit carriers serving relatively low-cost suburban areas to receive high-cost support, merely because of their small size? Should a small carrier in an urbanized area and a small carrier in a sparsely populated rural area be treated the same for high-cost support purposes? Should the Commission try to target support more effectively to the highest cost rural areas by considering whether the area served is rural, as defined in some fashion? Should the Commission try to target support to the highest cost rural areas by comparing the costs among companies or areas and identifying the highest-cost companies or areas as rural? Should the Commission consider providing different levels of support depending on the rural nature of the area served? If commenters believe that the Commission should consider the type of area served for universal service purposes, we ask them to propose how the Commission should define "rural area."

11. Within the context of the definition of rural carrier, we seek comment on whether the Commission's universal service rules encourage carriers to provide quality, affordable services more efficiently. To what extent do the Commission's rules encourage carriers serving rural areas to achieve economies of scale and scope that may benefit consumers? To what extent do the Commission's rules encourage or discourage consolidation that may provide economies of scale and scope? To what extent does the existence of separate support mechanisms for rural and non-rural carriers create incentives or disincentives for carriers to achieve economies of scale that permit the efficient provision of quality telecommunications to consumers in rural areas at rates that are reasonably comparable to those in urban areas?

12. We also seek comment on the impact of changing the definition of rural carriers. It is possible that if a new definition of "rural" is adopted for purposes of determining high-cost support, some companies that are currently designated as rural will instead be deemed non-rural. We seek comment on how such companies should be treated. For example, should these companies receive support under the same system as applies to existing non-rural companies, or should some other methodology apply? Should there be a transition period allowing these companies to adjust to whatever new rules and support levels may apply?

B. Universal Service Support in Areas Served by Rural Carriers

13. In this section, we seek comment on how to determine universal service support in areas served by rural carriers after the end of the RTF plan on June 30, 2006. We first seek comment on how the underlying costs that provide the basis for support should be determined. Specifically, we seek comment regarding whether forward-looking economic cost estimates, embedded costs, or some other method of determining costs should be used for rural carriers, how each potential method of determining costs should be implemented, and what method of determining costs should be used for competitive eligible telecommunications carriers (ETCs). Finally, we seek comment on what methodology should be used to calculate each rural carrier's support.

14. We ask that commenters, in analyzing these issues, recognize the distinction between the method of determining the cost basis of support and the method of calculating support, which together form a universal service support mechanism. For example, embedded costs have been linked, in the past, to universal service support calculated on a study area basis, while forward-looking economic cost estimates have been linked to support calculated using statewide averages. There is no requirement, however, limiting us to consideration of only those combinations. So that we may better understand all of the possible options, we encourage commenters to analyze the impact of each particular option in isolation. Of course, commenters should also identify any benefits or concerns related to particular combinations of cost bases and support calculations.

1. Cost Basis of Support

a. Forward-Looking Economic Costs Versus Embedded Costs

15. We seek comment on what method should be used to determine the costs associated with serving a particular area for the purposes of the rural support mechanism. In the *Universal Service First Report and Order*, 62 FR 32862, June 17, 1997, the Commission agreed with the Joint Board's recommendation that forward-looking economic costs should be the basis for universal service support because, unlike embedded costs, they provide appropriate incentives for investment, entry, and innovation in the marketplace. In the *Ninth Report and Order*, 64 FR 67416, December 1, 1999, and *Tenth Report and Order*, 64 FR 67372, December 1, 1999, the Commission implemented a forward-looking support mechanism for non-rural carriers. The Commission's methodology, based on the forward-looking high-cost synthesis model, has been used to determine support for non-rural carriers since January 2000. However, in the *Rural Task Force Order* in 2001, the Commission acknowledged that it did not, at that time, have sufficient information to develop a forward-looking model that appropriately could be used to estimate costs in areas served by rural carriers, and retained a modified embedded cost mechanism. Is it possible now to design a forward-looking model that would be appropriate to estimate costs for some or all rural carriers, or do embedded costs remain a more appropriate basis for determining the costs for all rural carriers? If embedded costs remain more appropriate, what future actions or events, if any, are necessary to make a forward-looking economic cost model viable? Is a forward-looking economic cost mechanism a viable long-term goal for areas served by rural carriers? Are there any other methods for determining a rural carrier's costs, besides a forward-looking economic cost model or embedded costs, that would be appropriate for universal service purposes?

16. We seek comment on whether a rural support mechanism that bases support on forward-looking economic

cost estimates or on embedded costs more efficiently and effectively achieves the Act's goals. Does basing support on forward-looking economic costs or on embedded costs better ensure the availability of telecommunications services in rural areas that are comparable to those in urban areas, in terms of both rates and quality? Does basing support on forward-looking economic costs remain integral to providing appropriate incentives for investment, innovation, and entry into the marketplace? Can embedded costs be utilized in a manner that would provide appropriate incentives? We also ask commenters to address the competitive and technological neutrality of each method of determining the cost basis of support.

17. How would shifting to a mechanism based on forward-looking economic costs affect investment in facilities that are capable of providing advanced services? In the *Rural Task Force Order*, the Commission noted that the public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services. High-cost loop support is available to rural carriers "to maintain existing facilities and make prudent facility upgrades[.]" To what extent has the use of embedded costs affected the deployment of infrastructure capable of providing advanced services? Does the embedded cost mechanism create different incentives to deploy facilities that are capable of providing advanced services than the forward-looking synthesis model?

18. While mindful of our caveat that commenters should distinguish between the method of determining the cost basis of support and the method of calculating support, we seek comment on the extent to which the choice of forward-looking economic costs or embedded costs should be considered in the context of a specific method of calculating support. For example, is there any reason that forward-looking economic costs should be utilized only as part of a mechanism that calculates support based on statewide average costs? Or should embedded costs only be used to compare study area costs to nationwide average cost benchmarks? Commenters should explain in detail why certain methods of determining costs are particularly appropriate or inappropriate for certain methods of calculating support.

19. We also seek comment on whether both embedded and forward-looking economic costs can be used when developing support levels. For example, if support is based on the results of a forward-looking economic cost model, should a company's support be capped at the level of support determined under an embedded cost system? Stated another way, should support be capped at the lesser of embedded or forward-looking costs? Would such a system provide sufficient support and create proper incentives for investment and efficiency?

20. We seek comment on whether other factors should be analyzed to determine when it is appropriate to use a cost model to determine support for a carrier. In particular, we seek comment on whether the demographics of the territory served, such as the density of customer locations, rather than the lineage of the company or the number of lines served should be used to determine whether support should be paid under a forward-looking or an embedded cost system. In addition, we seek comment on whether the relative cost characteristics of the area served should be considered in determining the cost basis of support. For example, do embedded costs provide any useful information in determining whether using a cost model is appropriate? We seek comment on what other factors, in addition to demographics and costs, should be considered in making this decision.

21. Finally, we seek comment on the impact of any proposed changes in the rural support mechanism on existing rules that limit the growth of support for rural carriers. How would existing capping mechanisms that apply to rural carrier support be affected by proposed changes in the basis of support for rural carriers? If particular changes in the basis of support are adopted, are capping mechanisms still necessary? If so, are there alternative mechanisms that would limit growth of the fund to sufficient levels, while still promoting efficiency and investment?

b. Estimating Forward-Looking Economic Costs

22. If the Commission ultimately concludes that it should base support for at least some rural carriers on forward-looking economic costs, we seek comment on how to estimate forward-looking economic costs in areas served by those rural carriers. If commenters propose to base support on a forward-looking economic cost model, what factors should be considered in designing a forward-looking economic cost model for areas served by rural carriers? To what extent are these factors different, in type or degree, from the factors relevant to a model for areas served by non-rural carriers? We ask that commenters address these issues generally and emphasize that commenters need not rely on the Commission's synthesis model—which is currently used in the non-rural high-cost support mechanism—to form the basis of their comments. We seek comment regarding whether there are other methods of estimating forward-looking economic costs. If a commenter contends that some other method of estimating forward-looking economic costs would be appropriate, it should describe its proposed method in detail.

23. We also seek comment regarding the synthesis model. The Rural Task Force critiqued the synthesis model and found fault with its application to rural carriers. What are the major concerns regarding the synthesis model with respect to its application to rural carriers? To what extent can those concerns be addressed through the modification or redesign of the synthesis model? We encourage commenters to discuss developments and refinements in cost modeling techniques that have occurred since the Rural Task Force evaluated forward-looking costs several years ago. Are there forward-looking cost models now available that may be superior to the synthesis model for estimating rural carriers' costs? Are geocoded data for rural carriers more readily available now than in the past?

24. Should a forward-looking economic cost model for rural carriers use different inputs than those used for non-rural carriers? If so, how should the inputs differ for rural carriers? Are there additional inputs that should be considered? We note that in the non-rural mechanism a nationwide set of inputs is used. To what extent should a model for smaller carriers use input values that vary by region or locality? For example, would using inputs that reflected local or regional physical plant limitations, such as soil or rock conditions or climate, significantly improve the usefulness of a model for rural carriers? Are there other local or regional conditions that could be included in a model for rural carriers?

25. As previously discussed, the Commission has used a forward-looking cost model as part of the support mechanism for non-rural carriers since 2000. When making proposals for appropriate changes to the model for rural carriers, commenters should address whether their proposals implicate the non-rural model, and if so, how. For example, if a commenter proposes that the Commission's synthesis model should be modified before being applied to rural carriers, the commenter should also explain

whether such changes are also needed as the model is applied to non-rural carriers. Is it necessary that the model or model platform that applies to rural and non-rural carriers be the same? If not, why not?

26. Should a forward-looking economic cost model reflect the availability of telecommunications provided by ETCs using wireless technology? Should there be a single model that estimates costs using the lowest cost technology? Should there be a wireless model, in addition to a wireline model, that estimates costs only for those ETCs that use wireless technology?

27. If a forward-looking economic cost model is adopted for some or all rural telephone companies, how would it be implemented? Would there be a transition period, or could it be implemented immediately? Or should there be different implementation periods for differently sized rural carriers?

c. Measuring Embedded Costs

28. Assuming that the Commission ultimately concludes that rural carriers should continue to receive support based on embedded costs, we seek comment on whether changes should be made with respect to how embedded costs are determined, or if the current rules should be retained beyond the five years of the RTF plan. Commenters that favor changes to embedded costs should describe those changes with specificity and explain how the proposed changes would be consistent with the Act's goals. In particular, we seek comment regarding changes that would improve the reliability of the cost data or reduce the administrative burdens associated with compiling, filing, and processing cost data. Do the Commission's rules create reliable accounts of the costs of providing supported services in rural areas? What modifications, if any, would improve the incentives for rural carriers to invest in their network facilities efficiently? We also seek comment on whether there should be any changes to the manner in which average schedule companies—which do not currently file actual cost data—receive high-cost support.

29. We also seek comment regarding whether there are any alternative methods of developing costs for rural carriers without requiring that rural carriers file actual cost data. For example, could proxy data like line counts, line density, or other measures be used to determine the cost of serving high-cost areas served by rural carriers?

d. Basis of Support for Competitive ETCs

30. On November 8, 2002, the Commission asked the Joint Board to review, among other things, the Commission's rules relating to high-cost support in study areas in which a competitive ETC is providing service. In particular, the Commission sought the Joint Board's review of the methodology for calculating support for ETCs in competitive areas and asked the Joint Board to address the concerns raised in the *Rural Task Force Order* regarding excessive fund growth if incumbent LECs lose a significant number of lines to competitive ETCs. In our Recommended Decision in response to the prior referral order, we indicated that it would be desirable to "consider possible modifications to the basis of support for all ETCs during the 'comprehensive review of the high-cost support mechanisms for rural and non-rural carriers.'" We explained that our approach to harmonizing the two mechanisms for rural and non-rural carriers will necessarily influence our recommendations on the basis of support in competitive areas.

31. We thus again seek comment on the methodology for calculating support for ETCs in competitive study areas. Specifically, we seek comment regarding whether, if multiple carriers are supported, the competitive ETC should receive support based on its own costs, the incumbent's costs, the lesser of its own or the incumbent's costs, or some other estimate of costs. If the cost characteristics of the incumbent and the competitor are different, what are the consequences? If support is based on the incumbent's costs and the competitive ETC has lower costs, does that provide a fair or unfair competitive advantage to the competitive ETC? Alternatively, would providing higher per-line support to the incumbent than to the competitive ETC pose a regulatory barrier to competitive entry in rural areas? If the competitive ETC's costs are higher than the incumbent's, should the competitive ETC's support be limited to that provided to the incumbent?

32. If support should be provided to competitive ETCs based on their own costs, how should those costs be determined? Competitive LECs are not subject to the Commission's cost allocation rules. Should the Commission's cost allocation rules be extended to competitive carriers that seek to receive universal service support? How would cost studies for wireless carriers be developed? Are there other methods of calculating support in study areas with more than one ETC? In providing comment, we ask commenters to address the significant changes in the marketplace that have occurred over the past several years. We note that, in considering issues related to support for competitive ETCs, we may find that it is necessary or appropriate to address these issues separately from other issues we consider in this proceeding.

2. Calculation of Support

33. We seek comment on whether the Commission should continue to calculate high-cost support for rural carriers based on individual carriers' study area average costs. Does the current rural universal service support mechanism provide appropriate incentives for investment in network facilities and functions used to provide supported services? What modifications, if any, would improve the incentives for rural carriers to invest in their network facilities efficiently? Does the current mechanism, by basing support on per-line costs, create inefficiencies by increasing support when rural carriers have declining line counts?

34. The current universal service support mechanisms for rural carriers measure investment expenses using the Commission's authorized rate-of-return on investment. In addition, forward-looking cost models often apply a rate-of-return to a forward-looking rate base. For example, the Commission's synthesis model for non-rural carriers uses the Commission's authorized rate-of-return as an input for the cost of capital. We seek comment on the rates of return that should be used in those calculations for rural carriers. Should the Commission use a rate-of-return other than that currently used for calculating high-cost support for rural carriers? Should the Commission use a rate-of-return other than its authorized rate-of-return for the purpose of calculating universal service support for rural carriers?

35. Assuming that some support will continue to be based on embedded costs, we also seek comment, for all support mechanisms, on whether new limitations should be imposed or existing limitations adjusted on particular categories of investment or expense. For example, the high-cost loop support mechanism currently limits corporate operations expense. We seek comment on whether this particular limit remains appropriate or needs to be adjusted. More generally, we seek comment on whether federal support programs should include similar limitations on corporate operations or other categories of expense.

36. As demonstrated by the Rural Task Force, the size of the area over which costs are averaged and the national average cost benchmark used in the non-rural mechanism have more impact on determining overall support levels than whether those costs are forward-looking or embedded. Similarly, the area over which costs are averaged and the national average cost benchmarks used in the high-cost loop support mechanism impact overall support levels. Should the Commission consider averaging costs over larger areas or smaller areas for high-cost loop support and other programs? For example, should the Commission consider calculating support based on statewide average costs or wire center costs, rather than study areas costs?

37. We seek comment on the cost benchmark or benchmarks that would be appropriate to use in future programs. If the Commission bases support on statewide costs, what should be the benchmarks? If the Commission continues to base support on study area costs, what should be the benchmarks? We also note that the high-cost loop support program uses different benchmarks based on the carrier's size. We seek comment on whether that distinction should be maintained, and if so, whether the differences in treatment of the two groups should remain as large as at present.

38. In the high-cost loop support program, the national average unseparated loop cost serves as the basis for comparing costs of individual study areas. Since 2001, the national average has been defined as $240 per line per year, adjusted for inflation. We seek comment on whether this remains an appropriate policy.

39. We seek comment on whether basing support on statewide average costs, as the Commission does in the non-rural mechanism, is more consistent with the purposes of universal service support and the principles set forth in section 254 of the Act. In reaffirming its decision to use statewide average costs in the non-rural mechanism, the Commission agreed with the Joint Board that "the general framework of the non-rural mechanism, through the use of statewide average costs, reflects the appropriate division of federal and state responsibility for determining high-cost support for non-rural carriers." The Commission explained that "[s]tatewide averaging effectively enables the state to support its high-cost wire centers with funds from its low-cost wire centers through implicit support mechanisms, rather than unnecessarily shifting funds from other states." Does providing support to rural carriers based on study area costs rather than statewide average costs adequately take into account a state's ability to address its own universal service needs? Do states that have many rural carriers receiving federal support place greater burdens on the federal universal service fund than states that have fewer rural carriers? On the other hand, are there historical or policy reasons why the Commission should not base rural carrier support on statewide average costs? The Joint Board and the Commission have recognized "that statewide averaging may not be appropriate for the high-cost mechanism providing support to rural carriers."

40. We also seek comment on whether basing rural company support on wire center costs, rather than study area costs, would more effectively target support to rural carriers serving the highest cost rural areas. To what extent would basing support on wire center costs require the use of a cost model? Because embedded costs are submitted at the study area level, it likely would be administratively burdensome to calculate embedded costs at the wire center level. Even if the Commission continues to base rural company support on embedded costs, should it use a cost model to target support to the highest cost wire centers? Would targeting support to wire centers be more or less effective than rural carriers' current disaggregation plans, which permit targeting support below the wire center level? Given that the overwhelming majority of rural telephone companies have chosen not to disaggregate, is further targeting of rural support necessary or desirable? Could the Commission use a cost model in conjunction with embedded costs in any other useful manner? For example, could the Commission compare embedded costs with forward-looking cost estimates to evaluate whether or not support is effectively targeted to rural telephone companies serving the highest cost areas?

41. The local switching support mechanism (LSS) provides support to carriers serving 50,000 or fewer lines, without regard to other cost characteristics of the carrier. Should the LSS mechanism take switching costs into account? Is 50,000 lines in service an appropriate benchmark for eligibility for LSS? Does this condition provide appropriate incentives for rural carriers to consolidate their operations to a level where quality telecommunications services could be provided more efficiently? Is there a continued need to provide support for carriers with high switching costs, or do other high-cost mechanisms provide sufficient support for such carriers?

42. We seek comment on whether the high-cost loop support mechanism should be merged with local switching support. Additionally, we seek comment regarding whether carriers that experience high transport costs should receive support. Non-rural carriers receive support for high-cost loops, switching and transport pursuant to the non-rural high-cost mechanism. Would there be benefits to moving rural carriers to a single embedded cost mechanism that includes support for high-cost loops, switching and transport?

C. Support for Transferred Exchanges

43. Under the Commission's current rules, a carrier that acquires exchanges from an unaffiliated carrier receives universal service support for those acquired exchanges at the same per-line support levels for which the exchanges were eligible prior to the transfer. The Commission adopted this rule in its *Universal Service First Report and Order* in response to its concern that until universal service support for all carriers is based on a forward-looking economic cost methodology, potential universal service support payments might unduly influence a carrier's decision to purchase exchanges from another carrier. The high-cost support mechanisms that are subject to the limitations in section 54.305 include rural carrier high-cost loop support, LSS, non-rural carrier high-cost model support, and interim hold-harmless support for non-rural carriers. In its *Rural Task Force Order*, the Commission modified this rule to permit an acquiring rural carrier to receive additional support (*i.e.*, "safety valve" support) for substantial investments it made in its acquired exchanges. Specifically, the safety valve mechanism enables rural carriers acquiring access lines to receive additional high-cost loop support to account for post-acquisition investments made to enhance the infrastructure of and improve the service in the acquired exchanges.

44. If the Commission concludes that it should maintain separate mechanisms for rural and non-rural carriers, we seek comment on whether the Commission should retain, repeal, or further modify § 54.305 of its rules. We ask commenters to discuss the costs and benefits of retaining this rule in its current form and whether more effective alternatives exist to ensure that carriers do not purchase exchanges in order to maximize the amount of universal service support that they receive while

not discouraging rural carriers, including those defined as such in this proceeding, from acquiring high-cost exchanges from carriers with low average costs. We also request comment on whether the safety valve mechanism provides sufficient incentives for investment in acquired exchanges.

II. Request for Comment

45. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 15, 2004, and reply comments on or before December 14, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

46. 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. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

47. 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).

48. 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 U.S. 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 addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. In addition, one copy of each pleading must be sent to each of the following: The Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; Web site: *http://www.bcpiweb.com*; phone: 1–800–378–3160; Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–B540, Washington, DC 20554; e-mail: *sheryl.todd@fcc.gov*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–20163 Filed 9–2–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0994]

Emergency Clearance: Public Information Collection Requirements

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

#1 Type of Information Collection Request: Emergency Clearance.

Title of Information Collection: SF–424 Research & Related (R&R).

Form/OMB No.: OS–0994.

Use: The SF–424 (R&R) will consolidate research and related grants application data and forms currently used by Federal grant-making agencies with a research mission or conducting research-related activities. The SF–424 (R&R) will become the common Federal (standard) form for research and related grant applications, replacing numerous agency-specific forms thus reducing the administrative burden to the Federal grants community that includes grantees (State, Local and Tribal governments; non-profit organizations, and education and research institutions) and Federal staff involved in grants-related activities. The form will be available to applicants interested in pursuing research and related grant opportunities.

Frequency: Recording, Reporting, and on occasion.

Affected Public: Federal , State, local, or tribal governments, business or other for profit, not for profit institutions.

Annual Number of Respondents: 312,500.

Total Annual Responses: 312,500.

Average Burden Per Response: 40 hours.

Total Annual Hours: 12,500,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed directly to the OS Paperwork Clearance Officer designated at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (0994–), Fax Number (202) 690–8715, Room 531–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: August 27, 2004.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 04–20083 Filed 9–2–04; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation Medicare Program; Meeting of the Technical Advisory Panel on Medicare Trustee Reports

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Technical Advisory Panel on Medicare Trustee Reports (Panel). Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Panel will discuss the long-term rate of change in health spending and may make recommendations to the Medicare Trustees on how the Trustees might more accurately estimate health spending in the long run. The Panel's discussion is expected to be very technical in nature and will focus on the actuarial and economic methods by which Trustees might more accurately measure health spending. Although panelists are not limited in the topics they may discuss, the Panel is not expected to discuss or recommend changes in current or future Medicare provider payment rates or coverage policy.

DATES: September 15, 2004, 8 a.m.–5 p.m., e.s.t.

ADDRESSES: The meeting will be held at HHS headquarters at 200 Independence Ave., SW., 20201, Room 425A.

Comments: The meeting will allocate time on the agenda to hear public comments. In lieu of oral comments, formal written comments may be submitted for the record to Andrew Cosgrove, OASPE, 200 Independence Ave., SW., 20201, Room 443F.8. Those submitting written comments should identify themselves and any relevant organizational affiliations.

FOR FURTHER INFORMATION CONTACT: Andrew Cosgrove (202) 205–8681, *andrew.cosgrove@hhs.gov*. Note: Although the meeting is open to the public, procedures governing security procedures and the entrance to Federal buildings may change without notice. Those wishing to attend the meeting should call or e-mail Mr. Cosgrove by September 8, 2004, so that their name may be put on a list of expected attendees and forwarded to the security officers at HHS Headquarters.

SUPPLEMENTARY INFORMATION: On April 22, 2004, we published a notice announcing the establishment and requesting nominations for individuals to serve on the Panel. The panel members are: Mark Pauly, Edwin Hustead, Alice Rosenblatt, Michael Chernew, David Meltzer, John Bertko, and William Scanlon.

Topics of the Meeting: The Panel is specifically charged with discussing and possibly making recommendations to the Medicare Trustees on how the Trustees might more accurately estimate the long-term rate of health spending in the United States. The discussion is expected to focus on highly technical aspects of estimation involving economics and actuarial science. Panelists are not restricted, however, in the topics that they choose to discuss.

Procedure and Agenda: This meeting is open to the public. Interested persons may observe the deliberations and discussions, but the Panel will not hear public comments during this time. The Commission will also allow an open public session for any attendee to address issues specific to the topic.

Authority: 42 U.S.C. 217a; Section 222 of the Public Health Services Act, as amended. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: August 26, 2004.

Michael J. O'Grady,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 04–20161 Filed 9–2–04; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10115]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, submitted the following collection for emergency review and approval.

We requested an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with provisions of section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). We cannot reasonably comply with the normal clearance procedures because of the statutory implementation date of September 1, 2004.

OMB evaluated the collection for necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

OMB approved the collection emergency review of the information collection referenced below on August 31, 2004. OMB approved CMS's request of this collection for a 180-day approval period.

Note: CMS will issue its payment methodology shortly.

Background

Section 1011 provides $250 million per year for fiscal years (FY) 2005–2008 for payments to eligible providers for emergency health services provided to undocumented aliens and other specified aliens. Two-thirds of the funds will be divided among all 50 States and the District of Columbia based on their relative percentages of undocumented aliens. One-third will be divided among the six States with the largest number of undocumented alien apprehensions.

From the respective State allotments, payments will be made directly to hospitals, certain physicians, and ambulance providers for some or all of the costs of providing emergency health care required under section 1867 and related hospital inpatient, outpatient and ambulance services to eligible individuals. Eligible providers may include an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization. A Medicare critical access hospital (CAH) is also a hospital under the statutory definition. Payments under section 1011 may only be made to the extent that care was not otherwise reimbursed (through insurance or otherwise) for such services during that fiscal year.

Payments may be made for services furnished to certain individuals described in the statute as: (1) Undocumented aliens; (2) aliens who have been paroled into the United States at a port of entry for the purpose of receiving eligible services; and (3)

Mexican citizens permitted to enter the United States for not more than 72 hours under the authority of a biometric machine readable border crossing identification card (also referred to as a "laser visa") issued in accordance with the requirements of regulations prescribed under a specific section of the Immigration and Nationality Act.

Type of Information Collection Request: New collection; *Title of Information Collection:* Federal Funding of Emergency Health Services (Section 1011): Enrollment Application; *Use:* This enrollment application will: identify a provider's potential interest in seeking payment under section 1011, but does not require the hospital to seek that payment; will allow hospitals to make a payment election, as required by section 1011(c)(3)(C); allow CMS to obtain necessary financial information to effectuate payments and issue the appropriate tax information; establish the State of service for each provider; allow CMS to verify that the hospital, physician or provider of ambulance services is currently enrolled as a Medicare provider; require hospitals to notify physicians of its election under (c)(3)(C) of section 1011; require hospitals electing hospital and physician payments to provide reimbursement to physicians in a prompt manner; prohibit hospitals electing to receive both hospital and physician payments from charging an administrative or other fee to physicians for the purpose of transferring reimbursement to physicians (*see* section 1011(c)(3)(D)); establishes the provider's obligation to repay any assessed overpayment within 30 days of notification by CMS; and, informs a provider that applicable Federal laws apply to submission of false claims.

Form Number: CMS–10115 (OMB#: 0938—New); *Frequency:* Other: as needed; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal govt.; *Number of Respondents:* 62,500; *Total Annual Responses:* 62,500; *Total Annual Hours:* 31,250.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Dated: August 31, 2004.

John P. Burke, III,

Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 04–20242 Filed 9–1–04; 1:58 pm]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Approval of Supplemental New Animal Drug Application; Ivermectin and Praziquantel Paste

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that it has approved a supplemental new animal drug application (NADA) filed by Virbac AH, Inc. The supplemental NADA provides for use of an ivermectin and praziquantel oral paste for the treatment and control of various species of internal parasites in mares intended for breeding purposes.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543, e-mail: *mberson@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 7613, filed a supplement to approved NADA 141–215 for EQUIMAX (ivermectin 1.87%/praziquantel 14.03%) Paste, used in horses for the treatment and control of various species of internal parasites. The supplemental NADA provides for use of EQUIMAX Paste in mares intended for breeding purposes. In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(i)) and 21 CFR 514.105(a) and 514.106(a), the Center for Veterinary Medicine is providing notice that this supplemental NADA is approved as of July 30, 2004. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning July 30, 2004.

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

Dated: August 25, 2004.

Steven D. Vaughn,

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

[FR Doc. 04–20178 Filed 9–2–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 22, 2004, from 8:15 a.m. to 4:30 p.m. and on September 23. 2004, from 9 a.m. to 12:15 p.m.

Location: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD, 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512391. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 22. 2004, the committee will consider the safety and

efficacy of a tetravalent meningococcal conjugate vaccine, Menactra, manufactured by Aventis Pasteur, Inc. On September 23, 2004, the committee will hear an update on the phase 3 Thai trial of ALVAC vCP 1521 (Aventis Pasteur, Inc.) with AIDSVAX B/E (VaxGen, Inc.) for the prevention of HIV–1 infection.

Procedure: On September 22, 2004, from 10 a.m. to 4:30 p.m. and on September 23, 2004, from 9 a.m. to 10:45 a.m. the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 15, 2004. Oral presentations from the public will be scheduled between approximately 2 p.m. and 2:30 p.m. on September 22, 2004, and between approximately 10:15 a.m. and 10:45 a.m. on September 23, 2004. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 16, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Presentation of Data: On September 22, 2004, from 8:15 a.m. to 9:45 a.m. and on September 23, 2004, from 11 a.m. to 12:15 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 30, 2004.

Lester M. Crawford,

Acting Commissioner of Food and Drugs.

[FR Doc. 04–20179 Filed 9–2–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Development of Application Guidance for Free Clinics To Sponsor a Volunteer Health Professional for Federal Tort Claims Act (FTCA) Deemed Status and FTCA Coverage for Medical Malpractice Claims

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Solicitation of comments.

SUMMARY: In preparation for the development of application guidance for determining the Free Clinics Federal Tort Claims Act (FTCA) Medical Malpractice Program (Program) qualifications, extent of protection, requirements for participation, and application process by which persons can determine if and/or how a volunteer free clinic health professional can be deemed a Public Health Service employee and, therefore, afforded FTCA medical malpractice protections, the Health Resources and Services Administration (HRSA) is offering an opportunity to comment on the draft Program Information Notice (PIN) titled "Federal Tort Claims Act Coverage of Free Clinic Volunteer Health Care Professionals." This Notice is available on HRSA's Bureau of Primary Health Care (BPHC) Web site at *http://www.bphc.hrsa.gov/freeclinicsftca*. This PIN details key definitions, sponsorship requirements, FTCA coverage, and the documentation required for the deeming application.

HRSA believes that consultation with the public is an integral part of the application guidance development effort directed at implementing the Free Clinics FTCA Program.

The opportunity to comment includes (1) Identifying those areas in the guidance that need clarification and/or improvement, and (2) offering suggestions for achieving improvements. This PIN will be effective when issued, and BPHC will use the feedback received under this comment process for future updates to the PIN for the Free Clinics FTCA Program. Comments will be reviewed, analyzed, and summarized for use in implementing the FTCA Free Clinic Volunteer Health Care Professionals deeming process.

Background: The purpose of the Program is to provide FTCA medical malpractice protection for eligible volunteer free clinic health professionals. Individuals eligible to participate in the Program are health care practitioners volunteering at free clinics who meet certain requirements. If the health care practitioner meets the Program requirements, he or she can be "deemed" to be an employee of the Public Health Service and would be protected from non-FTCA medical malpractice lawsuits as a result of the performance of medical, surgical, dental or related functions within the scope of their volunteer work at the free clinic. These related functions may include the conduct in certain clinical studies or investigations.

Authorizing Legislation: Section 224 of the Public Health Service Act (42 U.S.C. 233), as amended by Public Law 104–191 (the Health Insurance Portability and Accountability Act of 1996 (HIPAA)). Section 194 of HIPAA amended the Act by adding subsection 224(o), which provides for liability protection for certain free clinic health professionals.

DATES: Please send comments no later than October 4, 2004. The comments should be addressed to Sam Shekar, M.D., M.P.H., Associate Administrator for Primary Health Care, Health Resources and Services Administration, 11th Floor, 4350 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Program Director, Federal Tort Claims Act Medical Malpractice Program, Division of Clinical Quality, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East West Highway, Bethesda, Maryland 20814 (Phone: 301–594–0818 or e-mail: *FreeClinicsFTCA@HRSA.GOV*.)

Dated: August 30, 2004.

Elizabeth M. Duke,

Administrator.

[FR Doc. 04–20180 Filed 9–2–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal policy.

Name of Committee: National Cancer Institute Special Emphasis Panel. National Cooperative Drug Discovery Groups for Cancer.

Date: October 25–27, 2004.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8057, MSC 8329, Bethesda, MD 20892–8329, (301) 496–7421, *kerwinm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20087 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals assoicated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Natural Inhibitors of Carcinogenesis.

Date: September 22, 2004.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Gaithersburg, Washingtonian Ctr., 9751 Washington Blvd., Gaithersburg, MD 20878.

Contact Person: Peter J. Wirth, Scientific Review Adminsitrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328. (301) 496–7565; *pw2q@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20092 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: September 14, 2004.

Open: 8:30 a.m. to 4:30 p.m.

Agenda: The Agenda will include Opening Remarks, Administrative Matters, Director's Report, NCMHD, Advisory Council Subcommittee Reports, HHS Health Disparities Update, NIH IC and NCMHD Grantees Health Disparities Reports, and other business of the Council.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: 4:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Lisa Evans, JD, Senior Advisor for Policy, National Center on Minority Health, and Health Disparities, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, 301–402–1366, *evansl@ncmhd.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: August 20, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20091 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals,

the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Jackson Heart Study.

Date: October 4, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Patricia A Haggerty, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7188, MSC 7924, Bethesda, MD 20892, (301) 435–0280.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, review of mentored patient-oriented research career develop. awards (K–23s), midcareer investigator awards in patient-oriented research (K–24s), and mentored quantitative res. career develop. awards (K–25s).

Date: October 4–5, 2004.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Nancy L Di Fronzo, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0288, *difronzon@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Institutional National Research Service Award Applications (T32s).

Date: October 12–14, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Judy S Hannah, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892, (301) 435–0287.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20085 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel—SPO For Cochlear Implants.

Date: October 7, 2004.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Da-yu Wu, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Suite 400C, Bethesda, MD 20892, 301–496–8683, *wudy@nidcd.nih.gov.*

Name of Committee: Communication Disorders Review Committee.

Date: October 20–21, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Melissa J. Stick, PhD, MPH, Chief, Scientific Review Branch, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel—NIDCD Training Grant Review.

Date: November 2, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shiguang Yang, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel—Small Grants Program.

Date: November 12, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sheo Singh, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel—Balance Disorders.

Date: November 15, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20086 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Pediatrics Subcommittee.

Date: October 13, 2004.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 9000 Rockville Pike, Msc 7510, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20088 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health And Human Delevopment; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: September 20–21, 2004.

Open: September 20, 2004, 8:30 a.m. to adjournment.

Agenda: (1) A report by the Director, NICHD; (2) a presentation by the Child Development and Behavior Branch; (3) an update on the NICHD Reading First Teacher Education Network; (4) a presentation by the Division of Intramural Research; and other business of the Council.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: September 21, 2004, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Yvonne T. Maddox, PhD, Deputy Director, National Institute of Child Health, And Human Development, NIH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/nachhd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20089 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Purusant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material. and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Human Brain Project/Neuroinformatics.

Date: September 23–24, 2004.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter B. Guthrie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SBIB C (30): Shared Instrumentation.

Date: September 28, 2004.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave. Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BCHI (50) R: Bioengineering.

Date: September 28, 2004.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave. Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BCHI (01) Q: Small Business.

Date: September 28–29, 2004.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Molecular Pathobiology Study Section.

Date: October 3–5, 2004.

Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Elaine Sierra-Rivera, PhD, Scientic Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, (301) 435–1779, *riverase@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Clinical and Integrative Gastrointestinal Pathobiology Study Section.
Date: October 4–5, 2004.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mushtaq A. Khan, PhD, DVM, Scientic Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, (301) 435–1778, *khanm@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Xenobiotic and Nutrient Disposition and Action Study Section.
Date: October 6–7, 2004.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.
Contact Person: Patricia Greenwel, PhD, Scientic Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwep@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 26, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–20090 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Antitumor Macrocyclic Lactones, Compositions and Methods of Use

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in International Patent Application PCT/US98/15011, all related foreign and domestic patents and patent applications, entitled "Antitumor Macrocyclic Lactones, Compositions and Methods of Use" (DHHS Ref. No. E–244–1997/0), and in International Patent Application PCT/US00/05582, all related foreign and domestic patents and patent applications, entitled "Vacuolar-Type (H^+)-ATPase Inhibiting Compounds, Compositions, And Use Thereof" (DHHS Ref. No. E–244–1997/3), to Reata Discovery, Inc., located in Dallas, TX. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to human therapeutics for the treatment of cancer.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before November 2, 2004 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: George G. Pipia, PhD, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5560; Facsimile: (301) 402–0220; and e-mail: *pipiag@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The present inventions include macrocyclic lactones, and specifically salicylihalamides and related compounds, which are among the classes of compounds identified from biological sources. The NIH licensee for this technology might have some obligations to the source-country of the biological material. The present inventions further provide a method of preventing or treating cancer, which comprises administration to a patient an effective anticancer amount of at least one compound of the present invention. Furthermore, these compounds act as vacuolar-type (H^+)-ATP-ase inhibitors and can possibly be useful for the treatment of osteoporosis, development of drug resistance in tumor cells, Alzheimer's disease, glaucoma, abnormal urinary acidification and treatment or prevention of viral infections (*e.g.*, baculoviruses and retroviruses).

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 25, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20093 Filed 9–2–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Suspension of a Laboratory Which No Longer Meets Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services routinely publishes a list of laboratories in the **Federal Register** that are currently certified to meet standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29925) dated June 9, 1994.

This notice informs the public that the following laboratory's certification is suspended because extensive fire damage that occurred on July 9, 2004, has prevented the laboratory from testing specimens and fully participating in the National Laboratory Certification Program: Gamma-Dynacare Medical Laboratories, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4.

FOR FURTHER INFORMATION CONTACT: Donna M. Bush, PhD, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857, 240–276–2600 (voice), 240–276–2610 (fax).

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 04–19840 Filed 9–2–04; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) published in the **Federal Register** on April 11, 1988 (53 FR 11970), and revised in the **Federal Register** on June 9, 1994 (59 FR 29908), and on September 30, 1997 (62 FR 51118). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards that laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification, a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines, the following laboratories meet the minimum standards set forth in the Mandatory Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227; 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624; 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118; 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210; 615–255–2400.

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299; 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802; 800–445–6917.

Diagnostic Services Inc., dba DSI, 12700 Westlinks Dr., Fort Myers, FL 33913; 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602; 229–671–2281.

DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104; 206–386–2661/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974; 215–674–9310.

Dynacare Kasper Medical Laboratories[1], 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2; 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655; 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302; 319–377–0500.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715; 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053; 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219; 913–888–3927/800–873–8845 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

LabOne, Inc., d/b/a Northwest Toxicology, 1141 E. 3900 S., Salt Lake City, UT 84124; 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.; Northwest Drug Testing, a division of NWT Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Rd., Houston, TX 77040; 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869; 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Dr., Research Triangle Park, NC 27709; 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121; 800–882–7272 (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 1120 Stateline Rd. West, Southaven, MS 38671; 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449; 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.[1], 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8; 905–817–5700 (Formerly: NOVAMANN (Ontario) Inc.).

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112; 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232; 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Dr., Minneapolis, MN 55417; 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304; 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504; 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972; 541–687–2134.
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311; 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204; 509–755–8991/800–541–7897x7.
PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137; 817–605–5300 (Formerly: PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory).
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210; 913–339–0372/800–821–3627.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340; 770–452–1590/800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063: 800–824–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412; 702–733–7866/800–433–2750 (Formerly: Associated Pathologists Laboratories, Inc.).
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403; 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173; 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave.; Van Nuys, CA 91405; 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories).
Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236; 804–378–9130.
Sciteck Clinical Laboratories, Inc., 317 Rutledge Rd., Fletcher, NC 28732; 828–650–0409.
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109; 505–727–6300/800–999–5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601; 574–234–4176 x276.
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283; 602–438–8507/800–279–0027.
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915; 517–364–7400 (Formerly: St. Lawrence Hospital & Healthcare System).
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101; 405–272–7052.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203; 573–882–1273.
Toxicology Testing Service, Inc., 5426 NW 79th Ave., Miami, FL 33166; 305–593–2260.
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235; 301–677–7085.

The following laboratory has been suspended as of July 9, 2004, because extensive fire damage has prevented the laboratory from testing specimens:
Gamma-Dynacare Medical Laboratories [1], A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4; 519–679–1630.

Anna Marsh,
Executive Officer, SAMHSA.
[FR Doc. 04–19841 Filed 9–2–04; 8:45 am]
BILLING CODE 4160–20–P

[1] The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on June 9, 1994 (59 FR 29908), and on September 30, 1997 (62 FR 51118). After receiving DOT certification, the laboratory will be included in the monthly list of HHS certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–18981]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DHS.
ACTION: Notice of meetings.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its working groups will meet as required to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings will be open to the public.

DATES: TSAC will meet on Wednesday, September 29, 2004, from 8 a.m. to 2 p.m. Working groups will meet on the previous day, Tuesday, September 28, 2004, from 8:30 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material for and requests to make oral presentations at the meetings should reach the Coast Guard on or before September 13, 2004. Requests to have a copy of your material distributed to each member of the Committee or working groups prior to the meetings should reach the Coast Guard on or before September 13, 2004.

ADDRESSES: TSAC will meet in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. The working groups will first meet in the same room and then, if necessary, move to separate spaces designated at that time. Send written material and requests to make oral presentations to Mr. Gerald P. Miante, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, G–MSO–1, Room 1210, 2100 Second Street SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov* under the docket number USCG–2004–18981.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Assistant Executive

Director, telephone (202) 267–0214, fax (202) 267–4570, or e-mail at: *gmiante@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended).

Agenda of Committee Meeting

The agenda includes the following items:

(1) Status Report of the Crew Alertness Working Group.

(2) Status Report of the Towing Vessel Regulatory Review Working Group focusing on Travel Time.

(3) Status Report of the Maritime Security Working Group.

(4) Status Report of the Commercial/Recreational Boating Interface Working Group.

(5) Status Report of the Towing Vessel Designated Examiner Recordkeeping Working Group.

(6) Status Report of the Mariner Deaths during Nighttime Barge Fleeting Operations Working Group.

(7) Status Report of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) Implementation Working Group.

(8) Presentation on Oversize/Overloaded Tows and Consideration of Pilot Stress.

(9) Presentation on Pilothouse Visibility on Towing Vessels.

(10) Presentation on Crew Endurance Management.

(11) Discussion on Towing Vessel Inspections.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. Members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Director no later than September 13, 2004. Written material for distribution at a meeting should reach the Coast Guard no later than September 13, 2004. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit 20 copies to the Assistant Executive Director no later than September 13, 2004. You may also submit this material electronically to the e-mail address in **FOR FURTHER INFORMATION CONTACT**, no later than September 13, 2004.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: August 26, 2004.

Joseph J. Angelo,

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

[FR Doc. 04–20116 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1539–DR]

Florida; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1539–DR), dated August 13, 2004, and related determinations.

EFFECTIVE DATES: August 26, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 13, 2004:

The counties of Brevard, Flagler, Glades, Hendry, and Manatee for Categories C–G under the Public Assistance program (already designated for Categories A and B under the Public Assistance program and Individual Assistance.)

Hillsborough County for Categories C–G under the Public Assistance program (already designated for Categories A and B under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–20102 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1540–DR]

Nevada; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nevada (FEMA–1540-DR), dated August 26, 2004, and related determinations.

EFFECTIVE DATE: August 26, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 26, 2004, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Nevada resulting from a wildland fire on July 14–27, 2004, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Nevada.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided

under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Michael Karl, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Nevada to have been affected adversely by this declared major disaster:

Carson City County for Public Assistance.

Carson City County in the State of Nevada is eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–20101 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1541–DR]

Northern Mariana Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–1541–DR), dated August 26, 2004, and related determinations.

EFFECTIVE DATE: August 26, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 26, 2004, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands from flooding, high surf, storm surge, and high winds as a result of Super Typhoon Chaba beginning on August 21, 2004, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate subject to completion of Preliminary Damage Assessments. Direct Federal Assistance is authorized. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. You are authorized to make adjustments as warranted to the non-Federal cost shares as provided under the Insular Areas Act, 48 U.S.C. 1469a(d).

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, William Lokey, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of the Northern Mariana Islands to have been affected adversely by this declared major disaster:

The islands of Rota, Saipan, and Tinian for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program. Direct Federal assistance is authorized.

The islands of Rota, Saipan, and Tinian in the Commonwealth of the Northern Mariana Islands are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–20100 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1541–DR]

Northern Mariana Islands; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of the Northern Mariana Islands (FEMA–1541–DR), dated August 26, 2004, and related determinations.

EFFECTIVE DATE: August 27, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of the Northern Mariana Islands is hereby amended to include Individual Assistance and Categories C–G under the Public Assistance program for the following areas determined to have been adversely affected by the catastrophe declared a major disaster by

the President in his declaration of August 26, 2004:

The islands of Rota, Saipan, and Tinian for Individual Assistance and Categories C–G under the Public Assistance program (already designated for Categories A and B under the Public Assistance program and direct Federal assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–20104 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1538–DR]

Pennsylvania; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1538–DR), dated August 6, 2004, and related determinations.

EFFECTIVE DATE: August 25, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 25, 2004.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–20103 Filed 9–2–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Request OMB emergency approval: screening requirements of carriers; OMB–16, 1653–0016.

The Department of Homeland Security (DHS) and the Bureau of Immigration and Customs 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 section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The DHS 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. Therefore, immediate OMB approval has been requested. 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 direct to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Homeland Security, 725—17th Street, NW., Suite 10235, Washington, DC 20503; 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 DHS requests written comments and suggestions from the public and affected agencies concerning this the information collection. Comments are encouraged and will be accepted until November 2, 2004. During 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, 202–616–7600, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 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:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Screening Requirements for Carriers.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number; File No. OMB–16, Bureau of Immigration and Customs Enforcement.

1. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The evidence collected is used by DHS to determine whether sufficient steps were taken by a carrier demonstrating improvement in the screening of its passengers in order for the carrier to be eligible for automatic fines mitigation.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 65 responses at 100 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,500 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 202–616–7600, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4304, 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.

Dated: August 31, 2004.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 04–20109 Filed 9–2–04; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4904–N–09]

Notice of Proposed Information Collection: Comment Request Technical Assistance for Community Planning and Development Programs

AGENCY: Office of the Assistant Secretary for Community Planning And Development, 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:* November 2, 2004.

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: Shelia Jones, Reports Liaison Officer, Department of Housing Urban and Development, 451 7th Street, SW., Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jean Whaley, (202) 708–3176 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting 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:

Title of Proposal: Technical Assistance for Community Planning and Development Program.

OMB Control Number, if applicable: 2506–0166.

Description of the need for the information and proposed use: Application information is needed to determine competition winners, *i.e.*, those technical assistance (TA) providers best able to offer local jurisdictions an ability to shape their CPD resources and other available resources into effective, coordinated, neighborhood and community development strategies to revitalize and to physically, socially and economically strengthen their communities. The application for the competition requires the completion of Standard Forms 424, 424B, LLL (if engaged in lobbying), and 2880, as well as supplementary information such as identification of field offices to be served and amounts of funds requested for each field office, a narrative statement addressing the factors for award, and a budget summary. After awards are made, providers are required to submit a work plan which includes a planned schedule for accomplishing each of the planned activities/tasks to be accomplished with TA funds, the amount of funds budgeted for each activity/task and the staff and other resources allocated to each activity/task. Narrative quarterly reports are required so that the provider's performance can be evaluated and measured against the workplan. Quarterly reports also require the submission of the SF 269a, a financial status report. A narrative final report and final SF 269A are also required.

Agency form numbers, if applicable: SF–424, SF–424B, SF–LLL, and HUD–2880.

Members of affected public: For-profit and non-profit organizations or State and local governments equipped to provide technical assistance to recipients of CPD programs.

Estimation of the total numbers of hours needed to prepare the Information collection including number of respondents, frequency of response, and hours of response.

Status of the proposed information collection: The FY 2003 Notice of Funding Availability (NOFA) for technical assistance providers for CPD programs elicited 161 responses. The Department estimates that each applicant required an average of 60 hours to prepare an application. Each year approximately 50 applicants are chosen for awards. Winners of the competition are required to develop a work plan, requiring approximately 20 hours, submit quarterly reports needing approximately six hours each (including a final report) and perform record keeping to include submission of vouchers for reimbursement, estimated at 12 hours annually. Because these actions are undertaken for each field office in which the applicant wins funds, the numbers reflect more than the base number of winners. Approximately 177 workplans were developed as a result of the FY 2003 competition and each requires quarterly reports and recordkeeping. The specific numbers are as follows:

	Number of respondents	Number of responses per respondent frequency	Total annual	Hours per response	Total hours
Applctns	161	1	161	60	9660
Workplan Devlpmt	177	1	177	20	3540
Qrtly Reports (incl final report)	177	4	708	6	4248

	Number of respondents	Number of responses per respondent frequency	Total annual	Hours per response	Total hours
Rcrdkpng	177	12	2124	2	4248
Total			3170		21696

Status of the proposed information collection: Reinstatement.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 27, 2004.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 04–20076 Filed 9–2–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4904–N–10]

Notice of Proposed Information Collection to OMB Comment Request Self-Help Homeownership Opportunity Program (SHOP)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* November 2, 2004.

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: Shelia Jones, Reports Liaison Officer, Department of Housing Urban and Development, 451 7th Street, SW., Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Louise D. Thompson, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Louise_D._Thompson@HUD.gov;* telephone (202) 708–2470 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 affecting 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.

SHOP provides funds for eligible non-profit organizations to purchase home sites and develop or improve the infrastructure needed to set the stage for sweat equity and volunteer-based homeownership programs for low-income persons and families. SHOP is authorized by the Housing Opportunity Program Extension Act of 1996, Section 11, and is subject to other Federal crosscutting requirements. SHOP funds are used for eligible expenses to develop decent, safe and sanitary non-luxury housing for low-income persons and families who otherwise would not become homeowners. Homebuyers must be willing to contribute significant amounts of their own sweat equity toward the construction of the housing units. HUD awards grants to national or regional nonprofit public or private organizations or consortia for self-help housing projects of at least 30 homes.

This Notice also lists the following information:

Title of Proposal: Self-Help Homeownership Opportunity Program (SHOP).

OMB Control Number, if applicable: OMB Control Number: 2506–0157, Expiration Date: August 31, 2004.

Description of the need for the information and proposed use: This is a proposed information collection for reporting requirements under SHOP. SHOP grants are used to fund acquisition and infrastructure improvements to new self-help housing projects, to be occupied by persons meeting the definition of low-income. Grant recipients are required to report to HUD on a quarterly and annual basis regarding the success of their SHOP programs. Information collected from SHOP recipients includes proposed accomplishments, actual accomplishments, and financial, unit and beneficiary information. The information collected will be used by HUD to assess the performance of SHOP grant recipients and the success of the program.

Agency form numbers, if applicable: HUD–424, HUD–424B, HUD–424CB, SF–LLL, HUD–2880, HUD–2990, HUD–2993, HUD–40215, HUD–40216, HUD–40217, HUD–40218. HUD–40219, and HUD–40220.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Paperwork requirement	Frequency of response	Hours per response	Number of respondents	Annual hour burden
HUD–424	1	0.25	9	2.25
HUD–424B	1	0.25	9	2.25
HUD–424CB	1	2.00	9	18.00
SF–LLL	1	0.25	9	2.25
HUD–2880	1	0.25	9	2.25
HUD–2990	1	0.50	9	4.50

Paperwork requirement	Frequency of response	Hours per response	Number of respondents	Annual hour burden
HUD–2993	1	0	9	0
Rating factor 1	1	4.00	9	36.00
Rating factor 2	1	4.00	9	36.00
Rating factor 3	1	6.00	9	54.00
Rating factor 4	1	3.00	9	27.00
Rating factor 5	1	4.00	9	36.00
HUD–40215	4	2.25	16	144.00
HUD–40216	1	9.00	16	144.00
HUD–40217	4	2.25	16	144.00
HUD–40218	4	2.25	912	8,208.00
HUD–40219	1	0.50	5	2.50
HUD–40220	4	0.50	16	32.00
Total annual hour burden				8,895.00

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 27, 2004.

Nelson R. Begón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 04–20077 Filed 9–2–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4901–N–36]

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.

EFFECTIVE DATE: September 3, 2004.

FOR FURTHER INFORMATION CONTACT: Kathy Burruss, Department of Housing and Urban Development, Room 7262, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 26, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04–19861 Filed 9–2–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1310–DB–CPAI]

Notice of Availability of the Alpine Satellite Development Plan Final Environmental Impact Statement; National Petroleum Reserve—Alaska, and Colville River Delta

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Alpine Satellite Development Plan Final Environmental Impact Statement (FEIS). The FEIS provides National Environmental Policy Act (NEPA) analysis and examines potential impacts of ConocoPhillips Alaska, Inc.'s (CPAI) proposed action to develop five satellite oil accumulations in the Northeast National Petroleum Reserve—Alaska and the adjacent Colville River Delta.

DATES: Written comments on the FEIS will be accepted for 30 days following the date the Environmental Protection Agency (EPA) publishes the Notice of Availability in the **Federal Register**. Following this period of availability for public review, the BLM will issue a Record of Decision regarding the Preferred Alternative within its authority. Comments on EPA's NPDES GP coverage will also be accepted for the same 30 days.

ADDRESSES: Written comments on the FEIS should be sent to James H. Ducker, Bureau of Land Management, Alaska State Office (931), 222 West 7th Avenue, Anchorage, Alaska 99513–7599. 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. The FEIS will be available in either hard copy or on compact disk at the Alaska State Office, Public Information Center at 222 West 7th Avenue, Anchorage, Alaska, 99513–7599. Copies of the FEIS will also be available for public review at the following locations: City of Anaktuvuk Pass, Anaktuvuk Pass, Alaska; Loussac Library and Alaska Resources Library and Information Service, Anchorage, Alaska; City of Atqasuk, Atqasuk, Alaska; Tuzzy Public Library, Barrow, Alaska; City of Nuiqsut, Nuiqsut, Alaska; and Noel Wein Library Fairbanks, Alaska. The entire document can be reviewed at the project Web site at *http://www.alpine-satellites-eis.com* or through BLM—Alaska's Web site at *http://www.ak.blm.us.*

Written comments on EPA's NPDES GP should be sent to Cindi Godsey, U.S. Environmental Protection Agency, 222 W. 7th Avenue, Box 19, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Jim Ducker, BLM Alaska State Office, 907–

271–3130 or Gary Foreman, BLM Northern Field Office, 907–474–2339.

SUPPLEMENTARY INFORMATION: CPAI proposes to develop five drilling pads and associated access roads, bridges, pipelines, power lines, and an airstrip. The pads are termed CD–3, CD–4, CD–5, CD–6, and CD–7. In the Colville River Delta, CD–3 is on State of Alaska land and CD–4 is on land owned by Kuukpik Corporation, a Native-owned corporation created under the authority of the Alaska Native Claims Settlement Act for the village of Nuiqsut. CD–5 is on land conveyed to Kuukpik within the National Petroleum Reserve—Alaska; CD–6 and CD–7 are on lands administered by the BLM in the National Petroleum Reserve—Alaska. The company proposes to place 20 to 30 wells on each pad and to transport the unprocessed, three-phase (oil, gas, and water) drilling product to the Alpine Central Processing Facility for processing. Processed oil would be placed in the existing pipeline system for transport to the Trans-Alaska Pipeline System.

The FEIS evaluates a range of alternatives, consistent with applicable law, by which to accomplish the proposed action while mitigating adverse impacts. Five action alternatives that fulfill the purpose and need of the proposed action are presented and analyzed, including a Preferred Alternative. The Preferred Alternative is a modification of the applicant's proposal, includes components from each of the action alternatives analyzed in the DEIS and reflects consideration of public and agency comments, regulatory needs, and further mitigation of environmental concerns. The Preferred Alternative would authorize development of the five pads at the locations requested by CPAI. Gravel roads would connect CD–4 through CD–7 to the Alpine Central Processing Facility; CD–3 would be accessed by use of an airstrip or by ice road. Substantial portions of the road and pipeline on BLM-managed lands would be moved outside of a setback from Fish Creek, bridges across the Nigliq Channel and the Ublutuoch River would be from bank to bank, all pipelines would be elevated a minimum of 7 feet above the ground as measured at the vertical support members, and all power lines would be placed in cable trays mounted on the vertical support members. The other alternatives include the applicant's proposal (Alternative A) and variations that included such features alternative road, bridge, pipeline, and pad locations; access only by airplane or helicopter; a mix of road and air access; a 5-feet high pipeline; and power transmission on power poles or buried in the ground. The No Action Alternative is presented as a benchmark, enabling the public and decision makers to compare the magnitude of environmental affects of the action alternatives. The alternatives cover the full range of reasonable development scenarios.

Also included in the FEIS is an analysis of full-field development (FFD) for an 890,000-acre area that includes the Colville River Delta west of its eastern-most channel and extends west to the vicinity of the mouth of the Kogru River on the west side of Harrison Bay and south from the Kogru River mouth for approximately 45 miles. In addition to development proposed by CPAI, the EIS analyzes development options for pads, pipelines, and other facilities throughout the Plan Area in order to identify potential mitigation measures for future development in the area. FFD is provided for analysis purposes only, and neither the Preferred Alternative nor the Record of Decision will include FFD as part of the action proposal. Decisions on future proposals for developments in the area would be addressed through additional NEPA analysis.

Section 810 of the Alaska National Lands Conservation Act requires the BLM to evaluate the effects of plans presented in this FEIS on subsistence activities in the area of the proposed action and alternatives, and to hold public hearings if it finds that any alternative may significantly restrict subsistence activities. The Draft EIS found that the proposal and some alternatives may significantly restrict subsistence activities. As a consequence, BLM held public hearings on subsistence in conjunction with the public meetings to accept comments on the Draft EIS in the northern Alaskan communities of Nuiqsut, Barrow, Atqasuk, and Anaktuvuk Pass. Appendix B of the FEIS describes how the Preferred Alternative and the other action alternatives may significantly restrict subsistence activities. In addition, all alternatives may significantly restrict subsistence in the cumulative case. The Appendix makes determinations required by Section 810 prior to authorizing an action.

The EPA has made a tentative determination to issue coverage under the North Slope General Permit AKG–33–0000 (NSGP) to ConocoPhillips Alaska, Incorporated, for discharges of domestic wastewater from the Alpine Satellite Development Plan. Persons wishing to comment on EPA's tentative determinations of General Permit (GP) coverage may do so in writing within the public notice period. Comments must be received by EPA no later than 30 days following the date the EPA publishes the Notice of Availability for the FEIS in the **Federal Register**, to be considered in the EPA's final determinations regarding NPDES GP coverage.

All comments regarding NPDES GP coverage should include: (1) The name, address, and telephone number of the commenter; (2) a concise statement of the exact basis for any comment; and (3) the relevant facts upon which the comment is based. For additional information regarding the NPDES GP, please refer to Appendix M: Public Notice of Coverage Under the National Pollutant Discharge Elimination System General Permit to Discharge to Waters of the United States for Facilities Related to the Extraction of Oil and Gas on the North Slope of the Brooks Range, Alaska (AKG–33–0000) in the FEIS. Public participation has occurred throughout the period since the BLM published a Notice of Intent (NOI) in the **Federal Register** on February 18, 2003, announcing the intent to begin preparation of the Alpine Satellite Development Plan EIS. Public scoping meetings were held in Anchorage, Barrow, Nuiqsut, and Fairbanks between March 6 and March 20, 2003. Public comments were received on the DEIS from January 16 through March 8, 2004, and during that period public comment meetings were held in Anaktuvuk Pass, Anchorage, Atqasuk, Barrow, Nuiqsut, and Fairbanks.

The BLM and four cooperating agencies—EPA, U.S. Army Corps of Engineers (USACE), U.S. Coast Guard, and the State of Alaska have also conducted government-to-government consultation with three Native Alaskan governments: The Native Village of Barrow, the Inupiaq Community of the Arctic Slope, and the Native Village of Nuiqsut, and have worked closely with the North Slope Borough, the local government of Nuiqsut, and other Federal agencies on the environmental impact statement.

The development on Federal lands within the National Petroleum Reserve-Alaska is subject to the management direction provided by the BLM's Record of Decision for the Northeast National Petroleum Reserve-Alaska Integrated Activity Plan/Environmental Impact Statement (IAP/EIS). The Record of Decision (ROD) for this development environmental impact statement may amend the IAP/EIS. Any amendment, including exceptions to requirements to the IAP/EIS, would be limited to those changes necessary for the development

authorized by BLM in the ROD and will not constitute a general amendment of the IAP/EIS.

EPA is a cooperating agency because it potentially has a permitting decision to make on the disposal of wastewater from camps under an NPDES permit. The alternatives presented in the FEIS discuss the use of a general permit or an individual permit. The USACE as a cooperating agency will review the proposed project pursuant to relevant Federal jurisdiction.

Henri R. Bisson,

State Director.

[FR Doc. 04–20036 Filed 9–2–04; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–087–1610–DO–034D]

Notice of Intent To Prepare a Resource Management Plan and Associated Environmental Impact Statement for the Cottonwood Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to prepare an RMP with an associated EIS for the Cottonwood Field Office. The planning area for the RMP, which includes 140,143 acres of BLM-administered public lands, is located in Adams, Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties, Idaho. Preparation of this RMP and EIS will conform to the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), Federal regulations, and BLM management policies.

DATES: This notice initiates the public scoping process. Comments on the scope of the plan, including issues or concerns that should be considered, should be submitted in writing to the address listed below by November 15, 2004. However, collaboration with the public will continue throughout the planning process. Dates and locations for public meetings will be announced through local news media, newsletters, and the BLM Web site (*http://www.id.blm.gov/planning/ctnwdrmp/index.htm*), at least 15 days prior to the event.

ADDRESSES: Please mail written comments to the BLM, Cottonwood Field Office. ATTN: RMP, House 1, Butte Drive Route 3, Box 181, Cottonwood, ID 83522–9498, or fax to (208) 962–3275. All public comments, including names and mailing addresses of respondents, will be available for public review at the Cottonwood Field Office during regular business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday, except holidays, and may be published as part of the EIS. 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, please state this prominently at the beginning of your written correspondence. The BLM will honor such requests 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.

FOR FURTHER INFORMATION CONTACT: For further information or to have your name added to the Cottonwood RMP Mailing List, contact Carrie Christman at the Cottonwood Field Office (see address above), telephone (208) 962–3245.

SUPPLEMENTARY INFORMATION: The Cottonwood RMP planning area is located in the southern part of the Idaho panhandle. The area is bordered to the west by the Oregon and Washington state lines, to the north by Benewah and Shoshone Counties, to the east by the Montana state line, and to the south by Lemhi and Valley Counties and the southern portion of Adams County. The Cottonwood Field Office planning area lies entirely within the ceded territory of the Nez Perce Tribe. The Nez Perce Reservation lies entirely within the planning area, and there are about 17,586 acres of BLM administered land within the reservation boundary. Management of BLM administered lands will involve trust and treaty resources.

The BLM-administered public lands within the Cottonwood Field Office planning area are currently managed in accordance with the decisions in the 1981 Chief Joseph Management Framework Plan (MFP) as amended. BLM will continue to manage these lands in accordance with the MFP and amendments until the RMP is completed and a Record of Decision is signed.

Preparation of an RMP for the Cottonwood Field Office is necessary to respond to changing resource conditions; respond to new issues; and provide a comprehensive framework for managing public lands administered by the field office. The RMP will establish new land use planning decisions to address issues identified through public scoping and, where appropriate, will incorporate decisions from the existing Chief Joseph MFP.

Public Participation: The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national interests. The public scoping process will hold identify planning issues and provide for public comment on the proposed planning criteria.

BLM has identified the following preliminary issue themes:

1. Vegetation management (including noxious weeds, riparian areas and Wetlands, and fuels and forest management).
2. Fire management.
3. Management of habitat for wildlife and special status species.
4. Management of transportation, public access, and recreational opportunities.
5. Land tenure adjustments.
6. Availability and management of public lands for commercial uses (minerals, forest products and livestock grazing).
7. Management of areas with special values.
8. Tribal treaty rights and trust responsibilities.

These preliminary issue themes are not final and may be refined or added to through future public participation.

BLM has also identified some preliminary planning criteria to guide development of the plan, to avoid unnecessary data collection and analysis, and to ensure the plan is tailored to the issues. These criteria may be modified or other criteria identified during the public scoping process. The public is invited to comment on the following preliminary planning criteria.

1. The plan will comply with all applicable laws, regulations, and current policies. This includes local, State, tribal, and Federal air quality standards; as well as water quality standards from the Idaho Non-Point Source Management Program Plans.
2. The RMP planning effort will be collaborative and multi-jurisdictional in nature. The BLM will strive to ensure that its management decisions are complementary to other planning jurisdictions and adjoining properties, within the boundaries described by law and Federal regulations.
3. All previously established Wilderness Study Areas will continue to be managed for wilderness values and character until Congress designates them as wilderness areas, or releases them for multiple use management.

4. The RMP will recognize all valid existing rights.

5. As part of this RMP process, BLM will analyze areas for potential designation as Areas of Critical Environmental Concern (ACEC) in accordance with 43 CFR 1610.7–2 and river corridors for suitability for designation under the Wild and Scenic Rivers Act.

July 6, 2004.

K. Lynn Bennett,

Idaho State Director, Bureau of Land Management.

[FR Doc. 04–19607 Filed 9–2–04; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of Record of Decision for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA) and Associated Wilderness and Other Contiguous Lands in Nevada, Resource Management Plan (RMP)/ Environmental Impact Statement (EIS), Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), Bureau of Land Management (BLM) policies, and the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000 (Public Law 106–554), the BLM announces the availability of the RMP/ROD for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Planning Area, located in northwestern Nevada. The Nevada and California State Directors will sign the RMP/ROD, which becomes effective immediately.

ADDRESSES: Copies of the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA) and Associated Wilderness and Other Contiguous Lands in Nevada RMP/ROD are available upon request from the Field Manager, Winnemucca Field Office, Bureau of Land Management, 5100 E Winnemucca Blvd., Winnemucca, Nevada 89445–2921, or via the Internet at *http://www.blackrockhighrock.org*. Copies of the RMP/ROD are also available for public inspection at the following repositories: University of Nevada-Reno Getchell Library, Reno, NV; Humboldt County Library, Winnemucca, NV; BLM-Nevada Carson City Field Office, Carson City, NV; BLM-Nevada State Office, Reno, NV; Public Library, Gerlach, NV; Public Library, Reno, NV; Pershing County Public Library, Lovelock, NV; Lyon County Library, Dayton, NV; Lyon County Library, Fernley, NV; BLM-California Surprise Field Office, Cedarville, CA; Modoc County Library, Cedarville, CA; Modoc County Library, Alturas CA; BLM-California State Office, Sacramento, CA; and BLM-California Eagle Lake Field Office, Susanville, CA. Persons who are not able to inspect the RMP/ROD either on-line or at one of the locations provided may request one of a limited number of printed copies or compact discs (CDs) by contacting the NCA Planning Staff at the Winnemucca Field Office by e-mail at *wfoweb@nv.blm.gov*, by telephone at (775) 623–1500, or by fax at (775) 623–1503. Requests should be directed to the NCA Planning Staff, clearly state that it is a request for a printed copy or CD of the Black Rock-High Rock RMP/ROD, and include the name, mailing address and phone number of the requesting party.

FOR FURTHER INFORMATION CONTACT: David C. Cooper, NCA Manager, BLM Winnemucca Field Office, 5100 E Winnemucca Blvd., Winnemucca, NV 89445–2921, (775) 623–1500, *wfoweb@nv.blm.gov* ("Attn: NCA Manager" in subject line of message).

SUPPLEMENTARY INFORMATION: The RMP/ROD was developed with broad public participation through a 3-year collaborative planning process. This RMP/ROD addresses management on approximately 1.2 million acres of public land in the planning area. The RMP/ROD is designed to achieve or maintain objectives that were identified in the legislation that created the NCA and wilderness areas or developed through the planning process. The RMP/ROD includes a series of management actions to meet the desired resource conditions for upland and riparian vegetation, wildlife habitats, cultural and visual resources, livestock grazing and recreation.

The approved RMP is essentially the same as Alternative D in the Proposed RMP/Final Environmental Impact Statement (PRMP/FEIS), published in September 2003. BLM received eight protests to the PRMP/FEIS. No inconsistencies with State or local plans, policies or programs were identified during the Governor's consistency review of the PRMP/FEIS. As a result, only minor editorial modifications were made in preparing the RMP/ROD. These modifications corrected technical errors that were noted during review of the PRMP/FEIS and provided further clarification for some of the decisions.

Dated: May 10, 2004.

Terry A. Reed,

Field Manager, Winnemucca Field Office, Bureau of Land Management.

[FR Doc. 04–19606 Filed 9–2–04; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–086–1610–DO–006D]

Notice of Intent To Prepare a Resource Management Plan and Associated Environmental Impact Statement for the Coeur d'Alene Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to prepare an RMP with an associated EIS for the Coeur d'Alene Field Office. The planning area for the RMP, which includes 96,745 acres of BLM-administered public land, is located in Boundary, Bonner, Kootenai, Benewah, and Shoshone Counties, Idaho. Preparation of this RMP and EIS will conform with the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), Federal Regulations, and BLM management policies.

DATES: This notice initiates the public scoping process. Comments on the scope of the plan, including issues or concerns that should be considered, should be submitted in writing to the address listed below by November 15, 2004. However, collaboration with the public will continue throughout the planning process. Dates and locations for public meetings will be announced through local news media, newsletters, and the BLM Web site (*http://www.id.blm.gov/planning/cdarmp/index.htm*), at least 15 days prior to the event.

ADDRESSES: Please mail written comments to the BLM, Coeur d'Alene Field Office, Attn: RMP, 1808 North Third Street, Coeur d'Alene, ID 83814–3407, or fax to (208) 769–5050. All public comments, including names and mailing addresses of respondents, will be available for public review at the Coeur d'Alene Field Office during regular business hours (7:45 a.m. to 4:30

p.m.) Monday through Friday, except holidays, and may be published as part of the EIS. 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, please state this prominently at the beginning of your written correspondence. The BLM will honor such requests 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.

FOR FURTHER INFORMATION CONTACT: For further information or to have your name added to the Coeur d'Alene RMP Mailing List, contact Scott Pavey at the Coeur d'Alene Field Office (see address above), telephone (208) 769–5059.

SUPPLEMENTARY INFORMATION: The Coeur d'Alene RMP planning area is located entirely in the northern part of the Idaho panhandle. The area is bordered to the west by the Washington state line, to the north by the Canadian border, to the east by the Montana state line, and to the south by Latah and Clearwater Counties, Idaho. The Coeur d'Alene Field Office planning area also lies partially within the ceded territory of the Coeur d'Alene Tribe. The Coeur d'Alene Reservation lies entirely within the planning area, and there are about 180 acres of BLM-administered land within the reservation boundary. Management of BLM-administered lands within the ceded area and the reservation boundaries will involve trust and treaty resources. Other Federally recognized tribes with aboriginal or historic ties to the planning area include the Kootenai Tribe in Idaho, the Kalispell Tribe in Washington, and the Salish and Kootenai Tribes in Montana.

The BLM-administered public lands within the Coeur d'Alene Field Office planning area are currently managed in accordance with the decisions in the 1981 Emerald Empire Management Framework Plan (MFP) as amended. BLM will continue to manage these lands in accordance with the MFP and amendments until the RMP is completed and a Record of Decision is signed.

Preparation of an RMP for the Coeur d'Alene Field Office is necessary to respond to changing resource conditions; respond to new issues; and prepare a comprehensive framework for managing public lands administered by the field office. The RMP will establish new land use planning decisions to address issues identified through public scoping and, where appropriate, will incorporate decisions from the existing Emerald Empire MFP.

Public Participation: The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national interests. The public scoping process will help identify planning issues and provide for public comment on the proposed planning criteria.

BLM has identified the following preliminary issue themes:

1. Vegetation management (including noxious weeds, riparian areas and wetlands, and fuels and forest management).
2. Fire management.
3. Management of habitat for wildlife and special status species.
4. Management of transportation, public access, and recreational opportunities.
5. Land tenure adjustments.
6. Availability and management of public lands for commercial uses (minerals, forest products and livestock grazing).
7. Management of areas with special values.
8. Tribal treaty rights and trust responsibilities.

These preliminary issue themes are not final and may be refined or added to through future public participation.

BLM has also identified some preliminary planning criteria to guide development of the plan, to avoid unnecessary data collection and analysis, and to ensure the plan is tailored to the issues.

These criteria may be modified or other criteria identified during the public scoping process. The public is invited to comment on the following preliminary planning criteria:

1. The plan will comply with all applicable laws, regulations, and current policies. This includes local, State, tribal, and Federal air quality standards; as well as water quality standards from the Idaho Non-Point Source Management Program Plans.
2. The RMP planning effort will be collaborative and multi-jurisdictional in nature. The BLM will strive to ensure that its management decisions are complementary to other planning jurisdictions and adjoining properties, within the boundaries described by law and Federal Regulations.
3. All previously established Wilderness Study Areas will continue to be managed for wilderness values and character until Congress designates them as wilderness areas, or releases them for multiple use management.
4. The RMP will recognize all valid existing rights.
5. As part of this RMP process, BLM will analyze areas for potential designation as Areas of Critical Environmental Concern (ACEC) in accordance with 43 CFR 1610.7–2, and river corridors for suitability for designation under the Wild and Scenic Rivers Act.

Dated: July 6, 2004.

K. Lynn Bennett,

Idaho State Director, Bureau of Land Management.

[FR Doc. 04–19916 Filed 9–2–04; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

Apostle Islands National Lakeshore General Management Plan, Environmental Impact Statement, Wisconsin

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for the General Management Plan, Apostle Islands National Lakeshore.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service (NPS) is preparing an environmental impact statement for a general management plan for Apostle Islands National Lakeshore, Wisconsin. The environmental impact statement will be approved by the Regional Director, Midwest Region.

The general management plan will establish the overall direction for the park, setting broad management goals for managing the area over the next 15 to 20 years. The plan will prescribe desired resource conditions and visitor experiences that are to be achieved and maintained throughout the park based on such factors as the park's purpose, significance, special mandates, the body of laws and policies directing park management, resource analysis, and the range of public expectations and concerns. The plan, also, will outline the kinds of resource management activities, visitor activities, and developments that would be appropriate in the park in the future.

A range of reasonable alternatives for managing the park will be developed through this planning process and will include, at a minimum, a no-action and a preferred alternative. Major issues the plan will address include changes in visitor use patterns, adequacy and

sustainability of existing visitor facilities and park operations, management of natural and cultural resources, and partnership opportunities. The environmental impact statement will evaluate the potential environmental impacts of the alternative management approaches.

As the first phase of the planning process, the NPS is beginning to scope the issues to be addressed in the general management plan/environmental impact statement. All interested persons, organizations, and agencies are encouraged to submit comments and suggestions on issues and concerns that should be addressed in the general management plan/environmental impact statement, and the range of appropriate alternatives that should be examined.

DATES: The NPS is planning to begin public scoping in September 2004 via a newsletter to State and Federal Agencies; associated American Indian tribes; neighboring communities; county commissioners; local organizations, researchers, and institutions; the congressional delegation; and other interested members of the public. In addition, the NPS will hold public scoping meetings regarding the general management plan beginning in October 2004. At least one public meeting will be held in Bayfield, Wisconsin. Specific dates, times, and locations will be announced in the local media, on the Internet at *http://www.nps.gov/apis*, and will, also, be available by contacting the park's chief of planning and resource management. In addition to attending the scoping meetings, people wishing to provide input to this initial phase of developing the general management plan/environmental impact statement may mail or e-mail comments to the park's chief of planning and resource management at the address below.

ADDRESSES: General park information requests or requests to be added to the project mailing list should be directed to: Jim Nepstad, Chief of Planning and Resource Management, Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814. Telephone: (715) 779–3398, extension 102, e-mail: *jim_nepstad@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jim Nepstad, Chief of Planning and Resource Management, at the address above. Telephone: (715) 779–3398, extension 102, e-mail: *jim_nepstad@nps.gov*. General information about Apostle Islands National Lakeshore is available on the Internet at *http://www.nps.gov/apis*.

SUPPLEMENTARY INFORMATION: If you wish to comment on any issues associated with the plan, you may submit your comments by any one of several methods. You may mail comments to Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814. You may, also, comment via the Internet to *apis_comments@nps.gov*. Please submit Internet comments as a text file avoiding the use of special characters and any form of encryption. Be sure to include your name and return street address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Apostle Islands National Lakeshore, (715) 779–3398, extension 102. Finally, you may hand-deliver comments to the park at 415 Washington Avenue, Bayfield, Wisconsin 54814.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There, also, may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: July 9, 2004.

Ernest Quintana,

Regional Director.

[FR Doc. 04–20023 Filed 9–2–04; 8:45 am]

BILLING CODE 4312–97–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the Wilderness Study, Apostle Islands National Lakeshore

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the Wilderness Study, Apostle Islands National Lakeshore.

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, P.L. 91–190, 83 Stat. 852, 853, as codified as amended at 42 U.S.C. § 4332(2)(C), the National Park Service (NPS) announces the availability of the record of decision for the wilderness study, Apostle Islands National Lakeshore, Wisconsin. On May 5 the Director, Midwest Region, approved the record of decision for the wilderness study. Specifically, the NPS has selected the preferred alternative (alternative C) as described in the *Final Wilderness Study/Environmental Impact Statement*. Under the selected action (alternative C), the NPS proposes that 33,500 acres of the park's 42,160-acre land base (80%) be permanently protected as wilderness. Basswood, Sand, and Long Islands would not be proposed for wilderness designation.

The selected action and three other alternatives were analyzed in the draft and final environmental impact statements. The full range of foreseeable environmental consequences was assessed.

Among the alternatives the NPS considered, the selected action best protects the park's natural and cultural resources, and most of its wilderness resource, while providing a reasonable level of administrative flexibility for addressing future visitor and management needs. It also ensures that a range of quality recreational and educational experiences will continue to be provided on the islands, meet NPS goals for managing the park, and meet national environmental policy goals. The preferred alternative will not result in the impairment of resources and values.

The record of decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, the rationale for why the selected action is the environmentally preferred alternative, a finding on impairment of park resources and values, and an overview of public involvement in the decisionmaking process.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Nepstad, Wilderness Study Coordinator, Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814, or by calling (715) 779–3198, extension 102.

SUPPLEMENTARY INFORMATION: Copies of the record of decision may be obtained from the contact listed above or may be viewed online at *http://www.nps.gov/apis/wstudy.htm*. With the concurrence of the NPS Director, the NPS wilderness proposal will be sent to the Assistant Secretary of Fish and Wildlife and Parks and the Secretary of the Interior, who may revise or approve the proposal. The Secretary may then forward a

wilderness recommendation to the President, who in turn may approve or revise the recommendation and then transmit the recommendation to Congress for consideration.

Dated: May 5, 2004.

Ernest Quintana,

Regional Director, Midwest Region.

[FR Doc. 04–20022 Filed 9–2–04; 8:45 am]

BILLING CODE 4312–97–P

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: U.S. International Trade Commission.

ACTION: Notice of Proposed Collection; Comment Request.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35), the Commission intends to seek approval from the Office of Management and Budget to survey complainants who obtained exclusion orders that are currently in effect from the United States International Trade Commission following proceedings under 19 U.S.C. 1337. The survey will seek feedback on the effectiveness of the exclusion orders in stopping certain imports. Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received not later than sixty (60) days after publication of this notice.

ADDRESSES: Signed comments should be submitted to Marilyn R. Abbott, Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed survey that the Commission will submit to the Office of Management and Budget for approval are posted on the Commission's Internet server at *http://www.usitc.gov* or may be obtained from Lynn I. Levine, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone, 202–205–2560.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to: (1) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond.

Summary of the Proposed Information Collection

In its Strategic Plan (available on the agency's Internet server at *http://www.usitc.gov*) the Commission set itself the goal of obtaining feedback on the effectiveness of its exclusion orders from complainants who obtained such orders under 19 U.S.C. 1337. The survey asks each firm responding to the survey to: (i) Evaluate whether the remedial exclusion order has prevented the importation of items covered by the order, (ii) if not, estimate what are the absolute value and effect in the United States market of such imports, and (iii) indicate what experience it has had in policing the exclusion order, particularly with respect to any investigatory efforts and any interactions with the U.S. Customs Service.

Responses to the survey are voluntary. The Commission estimates that the survey will require less than 1 hour to complete.

By order of the Commission.

Issued: August 30, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20080 Filed 9–2–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–208 (Second Review)]

Barbed Wire and Barbless Wire Strand From Argentina

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on April 1, 2004 (69 FR 17226), and determined on August 5, 2004, that it would conduct an expedited review (69 FR 47404). The Commission transmitted its determination in this review to the Secretary of Commerce on August 30, 2004. The views of the Commission are contained in USITC Publication 3718 (August 2004), entitled *Barbed Wire and Barbless Wire Strand From Argentina: Investigation No. 731–TA–208 (Second Review).*

Issued: August 30, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20079 Filed 9–2–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–507]

In the Matter of Certain Medical Devices Used To Compact Inner Bone Tissue and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") issued by the presiding administrative law judge ("ALJ") terminating the above-captioned investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U,S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissenting.

can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 2, 2004, based on a complaint filed by complainant Kyphon Inc. of Sunnyvale, California. The respondents are Disc-O-Tech Medical Technologies, Ltd. of Herzliya, Israel, and Disc Orthopaedic Technologies, Inc. of Monroe Township, NJ. The complaint alleged violations of section 337 in the importation and sale of certain medical devices used to compact inner bone tissue and products containing same by reason of infringement of certain claims 1, 3, 7–9, 11, and 14 of U.S. Patent No. 4,969,888, claims 1, 3, 8–10, 12, and 15 of U.S. Patent 5,108,404, and claims 2, 17, 20, and 23–28 of U.S. Patent No. 6,248,110.

On August 5, 2004, the ALJ issued an ID (Order No. 13) granting in part respondents' motion to terminate the investigation and based on entry of a consent order proposed by respondents. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: August 30, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20082 Filed 9–2–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–524]

In the Matter of Certain Point of Sale Terminals and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 2, 2004, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Verve LLC of Austin, Texas. Supplements to the complaint were filed on August 9, 19, and 23, 2004. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain point of sale terminals and components thereof by reason of infringement of claims 1 and 2 of U.S. Patent No. 5,012,077. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic document information system (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2572.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2003).

Scope Of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 30, 2004, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain point of sale terminals and components thereof by reason of infringement of claims 1 or 2 of U.S. Patent No. 5,012,077; and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Verve L.L.C., 8127 Mesa Drive, # B–206–67, Austin, TX 78759.

(b) The respondents are the following companies alleged to be in violation of section 337, and are parties upon which the complaint is to be served:

Thales e-Transactions, Inc., 53 Perimeter Center East, Suite 175, Atlanta, GA 30346

Thales Group, 9, rue Elsa Triolet, Z. I. des Gatines, BP 13, 78373, Plaisir Cedex, France

CyberNet, USA, Inc., iPark Silicon Valley, Suite 319, 3003 North First Street, San Jose, CA 95134

CyberNet, Inc., 6th Floor, Sebang Building, 708–8, Yoksamdong, Kangnamku, Seoul, Korea

Lipman USA, Inc., 50 Gordon Drive, Syosset, NY 11791

Lipman Electronic Engineering, Ltd., 11 Haamal Street, Park Afek, Rosh Haayin, Israel 48092

Hypercom Corporation, 2851 W. Kathleen Road, Phoenix, AZ 85053

VeriFone, Inc., One Northwinds Center, Suite 500, 2475 Northwinds Parkway, Alpharetta, GA 30004

Ingenico Corp. USA, 1003 Mansell Road, Atlanta, GA 30076

Ingenico, 9, Quai de Dion Bouton, 92816 Puteaux Cedex, France

Trintech Inc., 15851 Dallas Parkway, Suite 855, Addison, TX 75001

Trintech Group PLC, Trintech Building, South County Business Park, Leopardstown, Dublin 18, Ireland

(c) Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to

19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting the responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against such respondent.

Issued: August 31, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20144 Filed 9–2–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–376, 377, & 379 and 731–TA–788–793 (Review)]

Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty and antidumping duty orders on certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: August 26, 2004.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3057), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2004, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (69 FR 45076, July 28, 2004). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the Reviews and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the reviews will be placed in the nonpublic record on March 9, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on March 29, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 21, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 23, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is March 18, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as

provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is April 7, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before April 7, 2005. On May 5, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 9, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 30, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20081 Filed 9–2–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 13, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Bloodborne Pathogens Standard (29 CFR 1910.1030).

OMB Number: 1218–0180.

Frequency: On occasion; quarterly; and annually.

Type of Response: Recordkeeping and third party disclosure.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 630,021.

Number of Annual Responses: 23,586,234.

Estimated Time Per Response: Varies from 5 minutes to maintain records to 1.5 hours for employees to receive training or medical evaluations.

Total Burden Hours: 14,060,764.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $24,507,892.

Description: The information collection requirements contained in 29 CFR 1910.1030, the Bloodborne Pathogens Standard, serve to protect employees from infections resulting from occupational exposure to bloodborne pathogens. These infections can lead to serious illness which may result in death. The information generated in accordance with the Standard provides the employer and the employee with the means to provide protection from the adverse health effects associated with occupation exposure to bloodborne pathogens. OSHA compliance officers use some of the information to help determine if employers are providing employees the protection afforded by the Standard.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 04–20105 Filed 9–2–04; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary

of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533 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 supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, 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

Vermont
VT030001 (Jun. 13, 2003)
VT030042 (Jun. 13, 2003)

Volume II

Virginia
VA030005 (Jun. 13, 2003)
VA030022 (Jun. 13, 2003)
VA030023 (Jun. 13, 2003)
VA030031 (Jun. 13, 2003)
VA030033 (Jun. 13, 2003)
VA030036 (Jun. 13, 2003)
VA030067 (Jun. 13, 2003)
VA030085 (Jun. 13, 2003)
VA030087 (Jun. 13, 2003)
VA030088 (Jun. 13, 2003)

Volume III

None.

Volume IV

None.

Volume V

Iowa
IA030003 (Jun. 13, 2003)
IA030004 (Jun. 13, 2003)
IA030005 (Jun. 13, 2003)
IA030008 (Jun. 13, 2003)
IA030009 (Jun. 13, 2003)
IA030010 (Jun. 13, 2003)
IA030013 (Jun. 13, 2003)
IA030028 (Jun. 13, 2003)
IA030056 (Jun. 13, 2003)
IA030060 (Jun. 13, 2003)
IA030067 (Jun. 13, 2003)
Kansas
KS030010 (Jun. 13, 2003)
Missouri
MO030002 (Jun. 13, 2003)
MO030004 (Jun. 13, 2003)
MO030009 (Jun. 13, 2003)
MO030049 (Jun. 13, 2003)
MO030050 (Jun. 13, 2003)
MO030060 (Jun. 13, 2003)

Volume VI

Oregon
OR030001 (Jun. 13, 2003)
Utah
UT030034 (Jun. 13, 2003)
Washington
WA030001 (Jun. 13, 2003)
WA030002 (Jun. 13, 2003)
WA030003 (Jun. 13, 2003)
WA030005 (Jun. 13, 2003)
WA030007 (Jun. 13, 2003)

Volume VII

Arizona
AZ030001 (Jun. 13, 2003)
AZ030002 (Jun. 13, 2003)
AZ030003 (Jun. 13, 2003)
AZ030004 (Jun. 13, 2003)
AZ030005 (Jun. 13, 2003)
AZ030010 (Jun. 13, 2003)
AZ030011 (Jun. 13, 2003)
AZ030012 (Jun. 13, 2003)
AZ030016 (Jun. 13, 2003)
AZ030017 (Jun. 13, 2003)
California
CA30029 (Jun. 13, 2003)
CA30030 (Jun. 13, 2003)
Nevada
NV030001 (Jun. 13, 2003)
NV030002 (Jun. 13, 2003)
NV030003 (Jun. 13, 2003)
NV030009 (Jun. 13, 2003)

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 *http://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 26th day of August 2004.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 04–19885 Filed 9–2–04; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the "Contingent Work Supplement to the Current Population Survey (CPS)" to be conducted in February 2005. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before November 2, 2004.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

Since the mid-1980s, there has been a growing belief among labor market researchers that employers require greater flexibility in their use of labor. As a result, many workers find themselves in "contingent jobs" that are structured to last for only limited duration or in alternative employment arrangements such as independent contracting, on-call work, working through a contract company, or through a temporary help firm. It is feared that workers with such employment may have little job security, low pay, and no employee benefits. This CPS supplement provides objective information about "contingent work."

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the Contingent Work Supplement to the CPS.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: Contingent Work Supplement to the Current Population Survey (CPS).

OMB Number: 1220–0153.

Affected Public: Households.

Total Respondents: 43,500.

Frequency: Biennially.

Total Responses: 43,500.

Average Time Per Response: 8 minutes.

Estimated Total Burden Hours: 5,800 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 24th day of August, 2004.

Kimberley Hill,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 04–20106 Filed 9–2–04; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Provision for the Delivery of Legal Services Committee

TIME AND DATE: The Provision for the Delivery of Legal Services Committee of the Legal Services Corporation Board of Directors will meet September 10, 2004. The Committee will convene following a lunch break expected to conclude at approximately 1:45 p.m.

LOCATION: The Best Western, 835 Great Northern Boulevard, Helena, Montana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda;
2. Approval of the minutes of the Committee's meeting of June 4, 2004;
3. Presentation by Montana Legal Services Association (MLSA) Staff on MLSA's efforts and specific activities to improve quality legal services, including:

a. Overview of MLSA by Klaus Sitte, Executive Director;

b. How Technology Improves MLSA's Client Service Delivery: Earned Income Tax Credit Project by Alison Paul, Deputy Director, & Kate Bladow, Technology Project Coordinator;

c. Expanding Clients' Access to Service and Delivering Quality Advice through MLSA's Hotline by Deborah Anspach, Hotline Managing Attorney;

d. Quality Client Services Begins with Understanding Client Community's Needs: Montana Comprehensive Legal Needs Study by Chris Manos, Executive Director, State Bar of Montana;

e. A Client's Perspective on Quality Client Service Delivery by Leah Sliwinski, MLSA Client;

f. Quality Service Delivery to a Special Population: MLSA's Migrant Component by Maria Beltran, Managing Attorney of the Migrant Unit;

4. Report on status of Mentoring Project;

5. Public comment;

6. Consider and act on other business;

7. Consider and act on adjournment of meeting.

FOR FURTHER INFORMATION CONTACT: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: September 1, 2004.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 04–20266 Filed 9–1–04; 3:12 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet September 10, 2004. The meeting will commence immediately following conclusion of the Provision for the Delivery of Legal Services Committee meeting, the deliberations of which are anticipated to terminate at approximately 3:15 p.m.

LOCATION: The Best Western, 835 Great Northern Boulevard, Helena, Montana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda;

2. Approval of the minutes of the Committee's meeting of June 4, 2004;

3. Presentation of LSC's *Financial Reports for the Ten-Month Period Ending July 31, 2004*;

4. Report on *FY 2004 Internal Budgetary Adjustments* based on the June Financial Report as recommended by the President and Inspector General;

5. Consider and act on the *FY 2005 Temporary Operating Budget*;

6. Consider and act on the *FY 2006 Budget "Mark"*;

7. Presentation by ABA of recommended budget mark;

8. Presentation by NLADA of recommended budget mark;

9. Presentation by management of recommended budget mark;

10. Consider and act on other business;

11. Public comment;

12. Consider and act on adjournment of meeting.

Contact Person for Information: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: September 1, 2004.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 04–20267 Filed 9–1–04; 3:12 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet September 11, 2004. The meeting will begin at 9 a.m., and continue until completion of the Committee's agenda.

LOCATION: The Best Western, 835 Great Northern Boulevard, Helena, Montana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda;

2. Approval of the *Committee's* meeting minutes of June 4, 2004;

3. Consider and act on retainer agreement and group representation issues relating to LSC open rulemaking on financial eligibility, 45 CFR part 1611; a. Staff report; and b. Public comment;

4. Consider and act on Mr. Dean Andal's petition for rulemaking to amend LSC regulations on Class Actions, 45 CFR Part 1617; a. Staff report; and b. Public comment;

5. Consider and act on management's clarification of LSC Grant Assurance 24 that LSC requires of its grantees; a. Staff report; and b. Public comment;

6. Other public comment;

7. Consider and act on other business;

8. Consider and act on adjournment of meeting;

9. Consider and act on adjournment of meeting.

Contact Person for Information: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: September 1, 2004.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 04–20268 Filed 9–1–04; 3:12 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet September 11, 2004. The Board will convene following a lunch break expected to conclude at approximately 1:15 p.m. It is possible that the meeting may convene earlier or later than expected, depending upon the length of the committee meeting occurring in the morning.

LOCATION: The Best Western, 835 Great Northern Boulevard, Helena, Montana.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by 5 U.S.C. 552b(c)(2) and LSC's corresponding regulation 45 CFR 1622.5(a); 5 U.S.C. 552b(c)(6) and LSC's corresponding regulation 45 CFR 1622.5(e); 5 U.S.C. 552b(c)(7) and LSC's implementing regulation 45 CFR 1622.5(f)(4), and 5 U.S.C. 522b(c)(9)(B) and LSC's implementing regulation 45 CFR 1622.5(g); and 5 U.S.C. 552b(c)(10) and LSC's corresponding regulation 45 CFR 1622.5(h). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda;

2. Approval of minutes of the *Board's* meetings of May 24, 2004 and June 5, 2004;

3. Approval of minutes of the *Search Committee's* meeting of June 5, 2004;

4. *Chairman's* Report;

5. *Members'* Reports;

6. *President's* Report;

7. *Acting Inspector General's* Report;

8. Consider and act on the report of the Board's *Committee on Provision for the Delivery of Legal Services;*

9. Consider and act on the report of the Board's *Finance Committee;*

10. Consider and act on the report of the Board's *Operations & Regulations Committee;*

11. Consider and act on the locations of the Board's meetings for the remainder of calendar year 2004 and the date and location of the 2005 Annual Meeting;

12. Consider and act on other business;

13. Public comment;

14. Consider and act on whether to authorize an executive session of the Board to address items listed below under *Closed Session;*

Closed Session

15. Briefing by management on internal personnel matters;

16. Briefing by the Inspector General on the activities of the Office of Inspector General;

17. Consider and act on General Counsel's report on potential and pending litigation involving LSC;

18. Consider and act on motion to adjourn meeting.

Contact Person for Information: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: September 1, 2004.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 04–20269 Filed 9–1–04; 3:12 pm]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of September 6, 13, 20, 27, October 4, 11, 2004.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of September 6, 2004

Tuesday, September 7, 2004

2 p.m. Discussion of Security Issues (closed—ex. 1).

Wednesday, September 8, 2004

9:30 a.m. Discussion of Office of Investigations (OI) Programs and Investigations (closed—ex. 7).

Week of September 13, 2004

Tuesday, September 14, 2004

9:30 a.m. Discussion of Security Issues (closed—ex. 1).

Week of September 20, 2004—Tentative

There are no meetings scheduled for the week of September 20, 2004.

Week of September 27, 2004—Tentative

There are no meetings scheduled for the week of September 27, 2004.

Week of October 4, 2004—Tentative

Thursday, October 7, 2004

10:30 a.m. Discussion of Security Issues (closed—ex. 1).

1 p.m. Discussion of Security Issues (closed—ex. 1).

Week of October 11, 2004—Tentative

Wednesday, October 13, 2004

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting). (Contact: Claudia Craig, (301) 415–7276.)

This meeting will be webcast live at the Web address, *http://www.nrc.gov.*

1:30 p.m. Discussion of Intragovernmental Issues (closed—ex. 1 & 9).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415–7080, TDD: (301) 415–2100, or by e-mail at *aks@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrd.gov.*

Dated: August 31, 2004.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 04–20195 Filed 9–1–04; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 6, 2004:

A closed meeting will be held on Thursday, September 9, 2004 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed meeting scheduled for Thursday, September 9, 2004 will be:

formal orders of investigations;

settlement of injunctive actions;

institution and settlement of administrative proceedings of an

enforcement nature; and adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: August 31, 2004.

Jonathan G. Katz,

Secretary.

[FR Doc. 04–20215 Filed 9–1–04; 11:20 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27886; 3–11616]

American Electric Power Company Inc. (70–9381); Notice and Order for a Hearing Pursuant to Section 19 of the Public Utility Holding Company Act of 1935

August 30, 2004.

This matter is before the Securities and Exchange Commission ("Commission") on remand from the United States Court of Appeals for the District of Columbia ("Court'). The Court, in *National Rural Electric Cooperative Association, et al.* v. *Securities and Exchange Commission*, 276 F.3d 609 (D.C. Cir. 2002), considered a Commission order [1] that authorized the American Electric Power Company Inc. ("AEP"), a holding company registered under the Public Utility Holding Company Act of 1935, as amended ("Act"), to acquire Central and South West Corporation ("CSW").[2] However, the Court found that the Commission's order did not adequately explain its determination that a unidirectional contract met the Act's interconnection requirement and that it had not made sufficient evidentiary findings and had not engaged in the proper legal analysis to support its conclusion that the resulting system would operate in a single area or region. The Court therefore remanded the matter for the Commission to provide a fuller explanation of its rationale.

Section 10(c)(1) and, by reference, section 11(b)(1), of the Act require the Commission to find that the utility operations to be acquired by a holding company, when combined with its existing operations, will constitute a "single integrated public-utility system." [3] Section 2(a)(29)(A) of the Act defines an electric "integrated public-utility system" to mean,

> [A] system * * * whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation.

Section 10(c)(2) of the Act further requires the Commission to find that a proposed acquisition will "serve the public interest by tending towards the economical and the efficient development of an integrated public-utility system."

The Court of Appeals upheld the Commission's finding under section 10(c)(2) that the merger would produce economies and efficiencies. However, the Court found that the Commission's order did not adequately justify two of its findings: (1) it did not "provide a satisfactory explanation" for the determination that a unidirectional contract path would "interconnect" AEP and CSW (together, "Applicants"),[4] and (2) it "failed to make any evidentiary findings" or to engage in the proper legal analysis to support its conclusion that the resulting system would operate in a "single area or region." [5] Based on these conclusions, the Court vacated the order and "remanded for further proceedings consistent with this opinion."

We believe further supplementation of the record is required for us to address the issues identified in the Court's opinion and to determine on remand whether the combined AEP and CSW systems meet the relevant standards of sections 10(c)(1) and 11(b)(1) of the Act and in particular, what specific facts about AEP's and CSW's electric systems and the geographic area covered by their systems are relevant to the required determinations. We recognize that parties to this proceeding may wish to introduce facts regarding the current state of the utility industry, in particular facts regarding the growth of regional transmission organizations and the unbundling of generation, transmission and distribution assets that has occurred in recent years that they believe are relevant to this determination. We also recognize that the parties may wish to introduce further facts—demographic, economic, and otherwise—regarding the geographic area in which the combined AEP–CSW system operates that they believe are relevant to this determination.

Therefore, in light of the issues raised by the Court of Appeals' opinion, it appears to the Commission that it is appropriate in the public interest that a hearing be held with respect to the proposed transaction. The hearing shall be limited to determining whether AEP and CSW are interconnected, through a unidirectional contract path or otherwise, and whether the resulting combined system operates in a single area or region. Accordingly,

It is ordered that a hearing shall be commenced, pursuant to section 19 of the Act and in accordance with the Commission's Rules of Practice,[6] at a time and place to be fixed by further order, for the purpose of determining whether the AEP and CSW systems are interconnected and operate in the same area or region, and hence satisfy the requirements of sections 10(c)(1) and 11(b)(1) of the Act and that an Administrative Law Judge, to be designated by further order, preside at the hearing.

It is further ordered that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order.

It is further ordered the Division of Investment Management shall be a party to the proceeding.

It is further ordered that any person, other than the American Electric Power Company and the Division of Investment Management, who wishes to be heard or who otherwise desires to participate in the proceeding, whether as a party or as a limited participant, shall file a written motion seeking to do

[1] American Electric Power Co., Inc., and Central and South West Corp., Holding Co. Act Release No. 27186 (June 14, 2000). In addition to approving the proposed transaction, the Commission denied the hearing requests of the American Public Power Association ("APPA"), the National Rural Electric Cooperative Association ("NRECA"), Consumers for Fair Competition and Mr. Paul S. Davis. The APPA and NRECA jointly filed the petition for review that led to the Court of Appeals decision remanding this matter to the Commission.

The merger was completed on June 15, 2000. The appeal did not stay the operation of the order. *See* section 24(b) of the Act.

[2] In the original proceeding, AEP and CSW, at that time each public utility holding companies separately registered under the Act, were joint applicants. AEP and CSW merged following issuance of the Commission's order, with AEP as the surviving registrant.

[3] Section 10(c)(1) of the Act in pertinent part requires the Commission not to approve an acquisition of securities or utility assets that is "detrimental to the carrying out of the provisions of section 11." Section 11(b)(1) in pertinent part limits the operations of a holding company system to a single integrated public-utility system.

[4] *National Rural Electric Cooperative Association* v. *SEC*, 276 F.3d at 616 (D.C. Cir. 2002).

[5] Id at 617.

[6] 17 CFR part 201.

so with the Secretary of the Commission in accordance with the requirements of Rule 210(b) of the Commission's Rules of Practice.[7] A movant shall serve a copy of any such motion upon American Electric Power Company Inc. at the address noted below in accordance with Rule 150(c) of the Commission's Rules of Practice, and proof of service shall be filed with the Secretary of the Commission contemporaneously with the motion.

It is further ordered that the Secretary of the Commission shall give notice of the hearing by mailing copies of this Notice and Order by certified mail to:

The American Electric Power Company, 1 Riverside Plaza, Columbus, Ohio 43215

The American Public Power Association, 2301 M Street, NW., Washington, DC 20037

The National Rural Electric Cooperative Association, 4301 Wilson Blvd., Arlington, Virginia 22203

It is further ordered that the Secretary of the Commission shall give notice to all other persons by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the hearing shall be included in the "SEC News Digest."

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–2047 Filed 9–2–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27888; International Series Release No. 1280; 70–10236]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 30, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to 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.

[7] 17 CFR 201.210(b).

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 24, 2004, 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 September 24, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Grid Transco, plc et al (70–10236)

National Grid Transco plc ("National Grid Transco"), and its registered holding company subsidiaries ("Intermediate Subsidiaries"), National Grid Holdings One plc, National Grid (U.S.) Investments, all at 1–3 Strand, London WC2N 5EH, United Kingdom, National Grid General Partnership c/o RL&F Service Corp., One Rodney Square, Wilmington, New Castle County, DE 19801, National Grid USA, National Grid Holdings Inc., both at 25 Research Drive, Westborough, MA 01582 all registered holding companies, National Grid USA's public utility subsidiaries ("Utility Subsidiaries") New England Power Company ("NEPCO"), Massachusetts Electric Company ("Mass. Electric"), The Narragansett Electric Company ("Narragansett"), Granite State Electric Company ("Granite State"), Nantucket Electric Company ("Nantucket"), New England Electric Transmission Corporation ("NEET"), New England Hydro-Transmission Corporation ("N.H. Hydro"), New England Hydro-Transmission Electric Co. Inc. ("Mass. Hydro"), all at 25 Research Drive, Westborough, MA 01582, and Niagara Mohawk Power Corporation ("Niagara Mohawk"), 300 Erie Boulevard, West Syracuse, New York 13202 and the direct and indirect nonutility subsidiaries ("Nonutility Subsidiaries") of National Grid Transco listed in Exhibit A ("Subsidiaries," and collectively "Applicants") to this application-declaration ("Application"), have filed under sections 6(a), 7, 9(a), 10, 12(b), 12(c) and 13(b) of the Act and rules 20, 26, 42, 43, 45, 46, 52, 53, 54, 87 and 90 under the Act.

I. Background

By order dated October 16, 2002 (HCAR No. 27577) ("October 2002 Order"), National Grid Group plc merged with Lattice Group plc ("Lattice Group") ("Merger") and was renamed National Grid Transco. In connection with the Merger, the Commission authorized National Grid Transco to invest up to $20 billion in foreign utility companies ("FUCOs") and to issue and sell equity and debt securities and to enter into guarantees to finance and support these investments. The financing authority granted in the October 2002 Order supplemented financing authority that National Grid Transco had received prior to the Merger by order dated January 16, 2002 (HCAR No. 27490) ("January 2002 Order"). The January 2002 Order and the October 2002 Order provide that the financing authorizations granted by each order expires on September 30, 2004. Applicants now propose the following new financing authorizations for the National Grid Transco system.

A. National Grid Transco

National Grid Transco is a registered holding company under the Act. National Grid Transco's ordinary shares are listed on the London Stock Exchange and its American Depositary Receipts ("ADRs") are listed on the New York Stock Exchange. As of March 31, 2004, there were 3,087,603,756 ordinary shares (including ADRs) outstanding. For the 12 months ended March 31, 2004, National Grid Transco reported consolidated gross revenues, operating income and net income of $15.2 billion, $3.1 billion, and $1.8 billion, calculated in accordance with United States generally accepted accounting principles ("US GAAP"). As of March 31, 2004, National Grid Transco had total consolidated assets of $59.4 billion, and a market capitalization of approximately $21.5 billion. National Grid Transco and its subsidiaries employ approximately 25,000 employees.

National Grid Transco's consolidated capitalization (including short-term debt) at March 31, 2004 was as follows:

	Book value (millions)	Percentage of total (%)
Common Stock Equity*	16,428.7	41.2
Preferred Stock	70.6	0.2
Long-Term Debt	20,590.1	51.7
Short-Term Debt**	2,761.9	6.9

	Book value (millions)	Percentage of total (%)
Total	39,851.3	100.0

* Including minority interests.
** Including current portion of long-term debt.

National Grid Transco's senior unsecured debt is currently rated A− by Standard & Poor's Inc. ("S&P") and Baa1 by Moody's Investor Service ("Moody's").

1. U.K. Business Overview

Through its direct wholly owned subsidiary, National Grid Holdings One plc ("NGH One"), and that company's subsidiary, National Grid Holdings Ltd, National Grid Transco owns The National Grid Company plc ("NGC") and certain other non-U.S. subsidiaries. NGC is engaged in the transmission of electricity in England and Wales. NGC owns and operates a transmission system consisting of approximately 4,500 route miles of overhead lines and approximately 410 route miles of underground cable together with approximately 341 substations at some 243 sites.

Through NGH One and its subsidiary Lattice Group, National Grid Transco owns Transco plc ("Transco") and certain other non-U.S. subsidiaries. Transco is the owner and operator of the majority of Great Britain's gas transportation and distribution system however it does not sell gas to consumers. Transco's transportation network comprises approximately 4,200 miles of high pressure national transmission pipelines and approximately 170,000 miles of lower pressure regional transmission and distribution systems pipelines. An interconnector to Belgium links Transco's own gas transportation system to continental Europe. A second interconnector supplies gas to Eire and Northern Ireland.

2. U.S. Business Overview

National Grid Transco's U.S. business is conducted through National Grid USA, a registered holding company and an indirect wholly owned subsidiary of National Grid Transco. National Grid USA is held directly and indirectly by intermediate companies ("Intermediate Companies") which also are registered holding companies.[1]

Through its subsidiaries, National Grid USA is engaged in electric transmission and distribution to residential, commercial, and industrial customers in New England and the transmission and distribution of electricity and the distribution of natural gas to residential, commercial, and industrial customers in New York. Applicants state that National Grid USA and its direct and indirect subsidiaries ("National Grid USA Group") operates and maintains distribution power lines and substations; provides metering, billing, and customer services; designs and builds distribution-related facilities; and provides related products and services including energy efficiency programs for customers.

National Grid USA owns companies that deliver electricity to approximately 3.3 million customers in New York, Massachusetts, Rhode Island and New Hampshire. These electric public utility companies own and operate approximately 76,000 miles of transmission and distribution lines in New York and New England. The National Grid USA Group includes five wholly owned electricity distribution companies: Niagara Mohawk,[2] Mass. Electric, Narragansett, Granite State, and Nantucket and four other utility companies: NEPCO, NEET, N.H. Hydro, and Mass. Hydro.

Niagara Mohawk provides gas utility service to over 560,000 retail customers in New York State and electric service to about 1.6 million electric customers in eastern, central, northern and western New York State. As of and for the 12 months ended March 31, 2004, Niagara Mohawk had total assets of $12,415.9 million, operating revenues of $4,063.6 million and net income of $139.7 million. Niagara Mohawk is subject to rate regulation by the Federal Energy Regulatory Commission ("FERC") and the New York State Public Service Commission ("NYPSC").

Mass. Electric is engaged in the delivery of electric energy to approximately 1.2 million customers in 171 cities and towns in Massachusetts. As of and for the 12 months ended March 31, 2004, Mass. Electric had total assets of $3,123.8 million, operating revenues of $1,993.5 million and net income of $34.8 million. Mass. Electric is subject to regulation by the FERC and the Massachusetts Department of Telecommunications and Energy ("MDTE").

Narragansett is engaged in the delivery of electric energy to approximately 473,000 customers in 38 cities and towns in Rhode Island. As of and for the 12 months ended March 31, 2004, Narragansett had total assets of $1,552.2 million, operating revenues of $812.1 million and net income of $30.1 million. Narragansett is subject to rate regulation by the FERC and the Rhode Island Public Utilities Commission ("RIPUC"). The Rhode Island Division of Public Utilities and Carriers ("RIDIV") has jurisdiction over Narragansett's financings and transactions with affiliates.

Granite State provides retail electric service to approximately 40,000 customers in 21 communities in New Hampshire. As of and for the 12 months ended March 31, 2004, Granite State had total assets of $100.8 million, operating revenues of $73.1 million and net income of $2.7 million. Granite State is subject to regulation by the FERC and the New Hampshire Public Utilities Commission ("NHPUC").

Nantucket provides retail electric service to approximately 11,000 customers on Nantucket Island, Massachusetts. As of and for the 12 months ended March 31, 2004, Nantucket had total assets of $59.2 million, operating revenues of $19.8 million and net income of $0.9 million. Nantucket is subject to regulation by the FERC and the MDTE.

National Grid USA's wholly owned subsidiary, NEPCO, is the operator of electricity transmission facilities in the states of Massachusetts, Rhode Island, New Hampshire, and Vermont. As of and for the 12 months ended March 31, 2004, NEPCO had total assets of $2,715.1 million, operating revenues of $457.9 million and net income of $72.5 million. NEPCO is subject to rate regulation by the FERC. The Vermont Public Service Board ("VPSB"), the MDTE and the NHPUC have jurisdiction over NEPCO's financings and transactions with affiliates. Although the Maine Public Utilities Commission ("MPUC") has jurisdiction over NEPCO's financings, it defers to financing authorizations from the MDTE. The Nuclear Regulatory Commission ("NRC") has jurisdiction over NEPCO's ownership of nuclear facilities.

NEET, a wholly owned subsidiary of National Grid USA, owns and operates a direct current/alternating current converter terminal facility for the first phase of the Hydro-Quebec and New England interconnection ("Interconnection") and six miles of

[1] Applicants state that Intermediate Companies are all the holding companies in the chain of ownership of National Grid USA that are direct or indirect subsidiaries of National Grid Transco including National Grid (US) Holdings Limited, National Grid (US) Investments 4, National Grid (US) Partner 1 Limited, National Grid (US) Partner 2 Limited, National Grid General Partnership, National Grid Holdings Inc. and any new companies in the chain of ownership as the structure may be revised from time to time.

[2] Niagara Mohawk is indirectly held by National Grid USA through the exempt holding company Niagara Mohawk Holdings Inc. ("NiMo Holdings"). *See* January 2002 Order.

high voltage direct current transmission line in New Hampshire. As of and for the 12 months ended March 31, 2004, NEET had total assets of $9.8 million, operating revenues of $6.3 million, and net income of $0.5 million. NEET is subject to rate regulation by FERC. The NHPUC has jurisdiction over its financings and transactions with affiliates. N.H. Hydro, in which National Grid USA holds 53.7% of the common stock, operates 121 miles of high-voltage direct current transmission line in New Hampshire for the second phase of the Interconnection, extending to the Massachusetts border. As of and for the 12 months ended March 31, 2004, N.H. Hydro had total assets of $92.2 million, operating revenues of $25.5 million, and net income of $3.1 million. N.H. Hydro is subject to rate regulation by FERC. The NHPUC has jurisdiction over N.H. Hydro's financings and transactions with affiliates.

Mass. Hydro, 53.7% of the voting stock of which is held by National Grid USA, operates a direct current/alternating current terminal and related facilities for the second phase of the Interconnection and 12 miles of high-voltage direct current transmission line in Massachusetts. As of and for the 12 months ended March 31, 2004, Mass. Hydro had total assets of $107.8 million, operating revenues of $31.1 million, and net income of $5.1 million. New England Hydro Finance Company, Inc. ("N.E. Hydro Finance") is owned in equal shares by Mass. Hydro and N.H. Hydro. NE Hydro Finance provides the debt financing required by the owners to fund the capital costs of their participation in the Interconnection. Mass. Hydro is subject to rate regulation by FERC. The MDTE has jurisdiction over Mass. Hydro's financings and transactions with affiliates.

Applicants state that the table below shows the capital structure of each Utility Subsidiary as of March 31, 2004.

Utility subsidiary	Common stock Equity	Debt
Niagara Mohawk	42.4	57.6
Mass. Electric	77.5	22.5
Nantucket	49.6	50.4
Narragansett	89.4	10.6
Granite State	78.0	22.0
NEPCO	71.1	28.9
NEET	2.6	97.4
NH Hydro	39.4	57.7
Mass. Hydro	39.9	61.1

The Nonutility Subsidiaries in the National Grid Transco System that are Applicants are described in Exhibit A to the Application.

II. Request for Financing Authorization

A. Financing Parameters

Applicants request authorization to engage in financing transactions through September 30, 2007 ("Authorization Period"), for which the specific terms and conditions are not known at this time. Applicants state that the following general terms ("Financing Parameters") will be applicable where appropriate to the proposed external financing activities requested (including, without limitation, securities issued for the purpose of refinancing or refunding outstanding securities of the issuer):

1. Effective Cost of Money

The effective cost of capital on long-term debt, preferred stock, preferred securities, equity-linked securities, and short-term debt will not exceed the greater of (a) 500 basis points over U.K. or U.S. government-issued securities or other government benchmark for the currency concerned having a remaining term equal to the term of such series or (b) a gross spread over U.K. or U.S. government-issued securities that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

2. Maturity

The maturity of long-term debt will be between one and 50 years after issuance. Preferred securities and equity-linked securities will be redeemed no later than 50 years after issuance, unless converted into common stock. Preferred stock issued directly by National Grid Transco may be perpetual in duration. Short-term debt will have a maturity of one year or less.

3. Issuance Expenses

The underwriting fees, commissions, or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities under this Application will not exceed the greater of (a) 5% of the principal or total amount of the securities being issued or (b) issuance expenses that are generally paid at the time of the pricing for sales of the particular issuance, having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality.

4. Common Equity Ratio

National Grid Transco will maintain common stock equity [3] as a percentage of total consolidated capitalization [4], as shown in its most recent quarterly balance sheet (but measured on a book value U.S. GAAP basis), of at least 30% or above. National Grid USA, on a consolidated basis, and each Utility Subsidiary [5] on an individual basis (except NEET),[6] will maintain common stock equity of at least 30% of total capitalization as shown in each company's most recent quarterly balance sheet (measured on a book value U.S. GAAP basis).

5. Investment Grade Ratings

Applicants further represent that, except for securities issued for the purpose of funding money pool operations, no guarantees or other securities, other than common stock, may be issued in reliance upon the authorization granted by the Commission under this Application, unless (a) the security to be issued, if rated, is rated investment grade; (b) all outstanding securities of the issuer that are rated are rated investment grade; and (c) all outstanding securities of National Grid Transco that are rated, are rated investment grade. For purposes of this provision, a security will be deemed to be rated "investment grade" if it is rated investment grade by at least one nationally recognized statistical rating organization ("NRSRO"), as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3–1 under the Securities Exchange Act of 1934, as amended ("1934 Act"). Applicants request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities in reliance upon the authorization granted by the Commission under this Application at any time that the conditions set forth in

[3] Common stock equity includes common stock (*i.e.*, amounts received equal to the par or stated value of the common stock), additional paid in capital, retained earnings, and minority interests.

[4] Applicants would calculate the common stock equity to total capitalization ratio as follows: common stock equity (as defined in the immediately preceding footnote)/(common stock equity + preferred stock + gross debt). Gross debt is the sum of long-term debt, short-term debt, and current maturities.

[5] Nantucket would maintain a minimum of 30% common stock equity as a percentage of total capitalization on a combined basis with Mass. Electric.

[6] Applicants state that NEET owns and operates a direct current/alternating current converter terminal facility for the first phase of the Hydro-Quebec and New England interconnection and six miles of high voltage DC transmission line in New Hampshire. The facilities are financed with a high level of debt on a project basis. The New England utilities participating in Phase 1 are responsible for the full costs of the facilities under a support agreement. Applicants state that it would be disruptive and economically inappropriate to refinance the facilities with additional equity since that would increase the cost of operating the facility. Based on this reasoning, the Commission excepted NEET from the 30% minimum common equity standard in the January 2002 Order.

clauses (a) through (c) above are not satisfied.

B. Use of Proceeds

The proceeds from the financings authorized by the Commission under this Application will be used for general corporate purposes, including (a) financing investments by and capital expenditures of the National Grid Transco System, (b) the funding of future investments in FUCOs, and companies exempt under rule 58 under the Act ("Rule 58 Subsidiaries"), (c) the repayment, redemption, refunding, or purchase by National Grid Transco or any Subsidiary of any of its own securities, and (d) financing working capital requirements of National Grid Transco and the Subsidiaries. The Applicants represent that no financing proceeds will be used to acquire the equity securities of any company unless the acquisition has been approved by the Commission in this proceeding or in a separate proceeding or in accordance with an available exemption under the Act or rules, including sections 32, 33, 34, and rule 58.

III. Proposed Financing Program

National Grid Transco requests authorization to increase its capitalization through the issuance and sale of securities including, but not necessarily limited to, common stock, preferred stock, preferred securities, equity-linked securities, options, warrants, purchase contracts, units (consisting of one or more purchase contracts, warrants, debt securities, shares of preferred stock, shares of common stock, or any combination of these securities), long-term debt, subordinated debt, bank borrowings, securities with call or put options, and securities convertible into any of these securities. The aggregate amount of new financing obtained by National Grid Transco during the Authorization Period (exclusive of short-term debt) through the issuance of securities, in each case valued at the time of issuance, shall not exceed $20 billion outstanding at any one time, ("NGT External Limit"), provided that securities issued for purposes of refunding or replacing other securities where National Grid Transco's capitalization is not increased as a result shall not be counted against the NGT External Limit. In addition, National Grid Transco requests authority to issue and sell from time to time, directly or indirectly through one or more financing subsidiaries ("Financing Subsidiaries"), short-term debt, including commercial paper and bank borrowings, in an aggregate principal amount at any time outstanding not to exceed $6 billion ("NGT Short-term Limit").

Although the financing limits in the application are stated in U.S. dollars, a large portion of the securities issued under this authorization are expected to be denominated in pounds or other currencies the value of which will fluctuate against the dollar. To provide consistent financing limits over the Authorization Period, for purposes of measuring compliance with the limits, National Grid Transco would value securities issued in currencies other than the dollar, on their date of issuance, based on the applicable exchange rate between the dollar and the currency in which the security is denominated in effect on the date the Commission order granting the Application is entered.

National Grid Transco contemplates that securities would be issued and sold directly to one or more purchasers in privately-negotiated transactions or to one or more investment banking or underwriting firms or other entities who would resell the securities without registration under the Securities Act of 1933, as amended ("1933 Act") in reliance upon one or more applicable exemptions from registration thereunder, or to the public either (a) through underwriters selected by negotiation or competitive bidding or (b) through selling agents acting either as agent or as principal for resale to the public either directly or through dealers. If underwriters are used, securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. These securities may be offered to the public either through underwriting syndicates (which may be represented by a managing underwriter or underwriters designated by National Grid Transco) or directly by one or more underwriters acting alone, or may be sold directly by National Grid Transco or through agents designated by National Grid Transco from time to time. If dealers are utilized, National Grid Transco will sell securities to the dealers, as principals. Any dealer may then resell these securities to the public at varying prices to be determined by the dealer at the time of resale. If common stock is being sold in an underwritten offering, National Grid Transco may grant the underwriters a "green shoe" option permitting the purchase from National Grid Transco at the same price additional shares then being offered solely for the purpose of covering over-allotments.

A. Common Stock

1. General Issuance

National Grid Transco proposes to issue and sell common stock, or options, warrants, or other stock purchase rights exercisable for common stock, through underwriting agreements of a type generally standard in the industry. Public distributions may be under private negotiation with underwriters, dealers or agents, or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. All common stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

2. Acquisitions

National Grid Transco proposes to issue common stock or options, warrants, or other stock purchase rights exercisable for common stock in public or privately-negotiated transactions as consideration for the equity securities or assets of other companies, provided that the acquisition of any equity securities or assets has been authorized in a separate proceeding or is exempt under the Act or the rules thereunder (*e.g.*, rule 58).

3. Stock Plans

National Grid Transco also proposes to issue common stock and/or purchase shares of its common stock (either currently or under forward contracts) in the open market for purposes of (a) reissuing the shares at a later date under stock-based plans which are maintained for stockholders, employees and nonemployee directors or (b) managing its capital structure. Applicants state that National Grid Transco's stock-based plans are briefly described in Exhibit E to the Application. National Grid Transco proposes to issue shares of its common stock in order to satisfy its obligations under each of these existing stock-based plans, as they may be amended or extended, and similar plans or plan funding arrangements hereafter adopted without any additional Commission order. Shares of common stock issued under these plans may either be newly issued shares, treasury shares or shares purchased in the open market, including ADSs, provided that only the net proceeds from sales of newly issued shares will be counted against the NGT External Limit. National Grid Transco proposes to make open-market purchases of common stock in accordance with the terms of, or in connection with, the operation of

the plans, or as part of a program to repurchase its securities generally. Stock repurchases would be conducted through open market transactions and could include the acquisition at arms'-length of National Grid Transco common stock from institutional investors that may have an affiliate interest in National Grid Transco.

B. Preferred Stock, Preferred Securities and Equity-Linked Securities

Applicants state that National Grid Transco states that it has not issued any preferred stock directly or other forms of preferred securities indirectly through any financing subsidiary. In the future, however, National Grid Transco wishes to have the flexibility to issue preferred stock directly and/or issue, indirectly through one or more Financing Subsidiaries, other forms of preferred securities (including, without limitation, trust preferred securities or monthly income preferred securities). Preferred stock and other forms of preferred securities may be issued in one or more series with rights, preferences, and priorities as may be designated in the instrument creating each series, as determined by National Grid Transco's board of directors, and may be convertible or exchangeable into shares of National Grid Transco common stock or unsecured indebtedness. Dividends or distributions on these securities would be made periodically and to the extent funds are legally available for the purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. National Grid Transco also proposes to issue and sell equity-linked securities in the form of stock purchase units, which combine a security with a fixed obligation (*e.g.*,, preferred stock or debt) with a stock purchase contract that is exercisable (either mandatorily or at the option of the holder) within a relatively short period (*e.g.*, three to six years after issuance). The dividend or distribution rates, interest rates, redemption and sinking fund provisions, conversion features, if any, and maturity dates with respect to the preferred stock or other types of preferred securities and equity-linked securities of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding.

C. Long-Term Debt

Applicants state that long-term debt would be unsecured and may be issued directly through a public or private placement or indirectly through one or more financing subsidiaries, in the form of notes, convertible notes, medium-term notes, or debentures under one or more indentures, or unsecured long-term indebtedness under agreements with banks or other institutional lenders. The maturity dates, interest rates, redemption and sinking fund provisions, and conversion features, if any, with respect to the long-term debt of a particular series, as well as any associated placement, underwriting, or selling agent fees, commissions, and discounts, if any, will be established by negotiation or competitive bidding at the time of issuance.

D. Short-Term Debt

National Grid Transco proposes to issue and sell from time to time, directly or indirectly through one or more financing subsidiaries, short-term debt, in the form of unsecured commercial paper, notes issued to banks and other institutional lenders, and other forms of unsecured short-term indebtedness, in an aggregate principal amount at any time outstanding not to exceed the NGT Short-Term Limit. Unused borrowing capacity under a credit facility would not count towards the NGT Short-Term Limit. National Grid Transco proposes that short-term borrowings under credit lines will have maturities of a year or less from the date of each borrowing.

National Grid Transco proposes that commercial paper issued under any commercial paper facility would be sold, directly or indirectly through one or more Financing Subsidiaries, in established U.S. or European commercial paper markets. Commercial paper would typically be sold to dealers at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring the commercial paper would reoffer it at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. It is anticipated that commercial paper would be reoffered to investors such as commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities, finance companies, and nonfinancial corporations.

E. Utility Subsidiary Financing

Applicants state that they expect the issue and sale of most securities by the Utility Subsidiaries will be exempt from the preapproval requirements of sections 6(a) and 7 of the Act under rule 52(a), as most of these securities must be approved by the public service commission in the state in which each Utility Subsidiary is incorporated and operating.[7] To the extent their financing is not exempt under rule 52(a) or otherwise, Applicants request authorization for the Utility Subsidiaries listed in the table below to issue debt securities having a maturity of 12 months or less in the aggregate amounts shown.

	In dollars
Niagara Mohawk	1 billion.
Mass. Electric	400 million.
Nantucket	40 million.
Narragansett	145 million.
Granite State	10 million.
NEPCO	750 million.
NEET	10 million.
NH Hydro	12.5 million.
Mass. Hydro	12.5 million.

F. Nonutility Subsidiary Financing

1. Generally

Applicants request authority for National Grid Transco or any Nonutility Subsidiary, including a Financing Subsidiary, to make loans to Nonutility Subsidiaries. Applicants state that these loans would generally have interest rates and maturities that are designed to parallel the lending company's effective cost of capital. Applicants request authorization to acquire the equity securities of wholly owned subsidiaries and to lend funds to these companies to finance ongoing operations and additional investments consistent with their existing businesses. Except as noted below, loans would bear interest at the lender's effective cost of capital. Applicants state that no financing proceeds will be used to acquire the equity securities of any company unless the acquisition has been approved by the Commission in this proceeding or in a separate proceeding or in accordance

[7] Specifically, Applicants state that: (a) The NYPSC must approve all financings by Niagara Mohawk other than short-term indebtedness having a maturity of 12 months or less, (b) the MDTE must approve all financings by Mass. Electric and Nantucket other than short-term indebtedness having a maturity of 12 months or less, (c) the RIDIV must approve all financings by Narragansett other than short-term indebtedness having a maturity of 12 months or less, (d) the NHPUC must approve all financings by Granite State, a New Hampshire corporation, (e) NEPCO is regulated by the VPSB, MDTE, and the MPUC with regard to security issuances other than short-term indebtedness having a maturity of 12 months or less and by the NHPUC with regard to both long- and short-term financings; (f) NEET and N.H. Hydro are subject to the jurisdiction of the NHPUC with respect to all financing transactions and (g) Mass. Hydro is subject to the jurisdiction of the MDTE which must approve all financings, other than short-term indebtedness having a maturity of 12 months or less.

with an available exemption under the Act or rules.

2. U.S. Chain of Companies

Applicants request authority for National Grid USA Group, the Intermediate Companies, National Grid USA, and NiMo Holdings to issue and sell securities to: (a) direct and indirect parent companies, and (b) FUCOs, such as NGH One and Lattice Group and their associate company subsidiaries. Applicants state that no FUCO or subsidiary of a FUCO will purchase equity and convertible debt securities from the Intermediate Companies, National Grid USA or NiMo Holdings. The Intermediate Companies, National Grid USA, and NiMo Holdings also propose to acquire securities from their direct or indirect subsidiary companies. The financing of Utility Subsidiaries would be subject to the Finance Parameters and the best rate method ("Best Rate Method"), described below. Applicants propose that financing of Nonutility Subsidiaries of National Grid USA also would be conducted under the Best Rate Method.

Applicants state that in no case would the Intermediate Companies, National Grid USA or NiMo Holdings borrow, or receive any extension of credit or indemnity from any of their respective direct or indirect subsidiary companies, except their Financing Subsidiaries or the Financing Subsidiaries of a direct or indirect parent company. Further, the Intermediate Companies, National Grid USA and NiMo Holdings would not acquire equity or convertible securities from indirect subsidiaries, unless otherwise authorized or permitted by the Commission, if the result would be to create a minority interest in a public utility company.

3. Intermediate Companies

Applicants commit that the Intermediate Companies would not issue securities to third parties. Applicants state that all borrowings by the Intermediate Companies would be unsecured, but may be guaranteed by National Grid Transco or other Intermediate Companies. Debt offerings by the Intermediate Companies and National Grid USA would have short, medium, and long-term maturities. Short-term debt would have a maturity of one year or less, medium-term debt would have maturities up to 5 years, and long-term debt would have maturities up to 50 years.

Applicants propose to structure financings within the National Grid Transco System and with FUCO subsidiaries. From time-to-time, Applicants request authority for the Intermediate Companies, National Grid USA, or NiMo Holdings to borrow funds from an indirect parent company or from a FUCO associate company. Applicants assert that these loans allow National Grid Transco the flexibility to meet the short-term working capital requirements of National Grid USA and its subsidiaries when funds can be raised at a lower cost by National Grid Transco.

Applicants propose that the terms and conditions of any financings between an Intermediate Company and its direct or indirect parent, or between an Intermediate Company and a FUCO subsidiary, such as NGH One or Lattice Group or their associate company subsidiaries, be on market terms. Applicants state that financing on market terms assists National Grid Transco to comply with U.K. tax regulations. Market rate financing assures that intercompany loans will not be used to transfer profits from one related entity to another. Market rates also allow the lending entity to recover its true costs of liquidity, and the risks associated with credit quality and interest rate and currency variability.

4. Best Rate Method

Applicants propose that, regardless of the market rate applicable to these transactions, debt funding provided to National Grid USA Group companies would bear interest at a rate set according to the Best Rate Method. Under the Best Rate Method, short-term loans from associate companies to National Grid USA Group companies would bear interest at the rate, as published in the Wall Street Journal on the day of the borrowing (or the most recently published rate when borrowings occur on days when the Wall Street Journal is not published), for high grade 30-day commercial paper issued by major corporations and sold through dealers plus an "at cost" allocation of National Grid Transco's funding costs.[8] For medium and long-term loans to National Grid USA Group companies, unless there is a directly identifiable external borrowing intended to finance the company, National Grid Transco would use a rate equal to the effective rate that National Grid Transco would pay on the issuance of a comparable security in a competitive offering to unaffiliated banks or other lenders.

The interest rates paid by the National Grid USA Group companies in connection with borrowings from National Grid Transco and the other companies in the National Grid System, including the FUCO subsidiaries, would not increase the cost of capital used by the National Grid USA Group. National Grid Transco regularly monitors its ability to access the capital markets and states that if it determines that the rate at which it can borrow is higher than the rate a National Grid USA Group company would pay in a direct borrowing at that time from a nonassociated party, the interest rate applied to National Grid USA Group borrowings from associated companies would be based on that lower cost of funds. Consequently, Applicants state that under the Best Rate Method, the interest rate on loans to any company in the National Grid USA Group would be set at a rate equal to the lower of: (a) National Grid Transco's cost of funds, (b) the cost of funds of another associate company that proposes to lend funds to the prospective National Grid USA Group company borrower, or (c) the cost of funds that would be paid by the prospective National Grid USA Group company borrower in a transaction directly with a nonassociated lender.

In implementing the Best Rate Method, National Grid Transco states that it would determine whether the lending rate applied to an associated company loan is equal to or lower than the rate available to a National Grid USA Group company in a direct borrowing from a nonassociated party (*i.e.*, a market rate), in much the same manner as an independent bank would determine the market rate. National Grid Transco further states that it would take into account the nature of National Grid USA's business, or that of the individual subsidiary to be financed, evaluate its capital structure, the particular risks to which it is subject, and generally prevailing market conditions. National Grid Transco would also evaluate and take into account information from third parties such as banks that would indicate the prevailing market rates for similar businesses. In particular, National Grid Transco states that it will obtain information on the range of rates used by one or more banks for loans to similar businesses.

[8] National Grid Transco states that the "at cost" allocation would add to the interest rate for high grade 30-day commercial paper a small additional percentage that would compensate National Grid Transco for the cost that it incurs in issuing commercial paper, notes to banks or other institutional lenders, and other forms of unsecured short-term debt. The issuance costs include any selling agent fees, commissions, discounts, commitment fees, facility fees and other costs directly associated with the financing. The costs would be allocated among all borrowers based on a ratio derived from historical National Grid Transco short-term borrowings and the average costs associated of those borrowings.

5. National Grid USA

National Grid USA requests authorization to issue debt securities to third parties through public or private offerings. Any issuances would be limited to an aggregate amount outstanding at any one time of $1 billion ("NGUSA Limit") and would be subject to the Financing Parameters. All borrowings by National Grid USA would be unsecured.

6. NiMo Holdings

In the January 2002 Order, the Commission found NiMo Holdings to be an exempt holding company under section 3(a)(1) of the Act, although it remains (regulated as) a subsidiary of a registered holding company. NiMo Holdings requests authorization to issue and sell securities to associate companies, but not NiMo Holdings' direct and indirect subsidiaries (other than Financing Subsidiaries), for the purpose of financing NiMo Holdings' existing business, the businesses of its respective subsidiaries, and future authorized or permitted businesses. Applicants state that NiMo Holdings would not issue equity or convertible securities to associate companies other than its immediate parent company and would not issue securities to third parties. Debt securities issued by NiMo Holdings would bear interest at the rates applicable to National Grid USA Group companies under the Best Rate Method described above. All borrowings by NiMo Holdings would be unsecured, except that borrowings may be guaranteed as provided below.

G. Continuation of Money Pool

Applicants request authority for the Utility Subsidiaries, National Grid USA Service Company ("ServiceCo") and any National Grid Transco System company ("Participating Subsidiaries") (to participate in the money pool established for the National Grid USA Group ("Money Pool") in the Merger Order. Applicants request that the Commission reserve jurisdiction over the participation of any National Grid Transco System company in the Money Pool, other than the Utility Subsidiaries and ServiceCo, as a borrower until the record in this matter has been supplemented with additional information regarding the proposed participant.

Applicants request authority for the Participating Subsidiaries to make unsecured short-term borrowings from the Money Pool, to contribute surplus funds to the Money Pool, to lend and extend credit to, and acquire promissory notes from, one another through the Money Pool.

Applicants further request authority for: (a) National Grid Transco, (b) the Intermediate Companies, (c) NGH One, Lattice Group, their subsidiaries and any subsequently organized or acquired FUCO, (d) National Grid USA, (e) NiMo Holdings, and (f) the Nonutility Subsidiaries of National Grid USA to invest surplus funds and/or lend and extend credit to the Participating Subsidiaries through the Money Pool.

All the Utility Subsidiaries request authorization within the limits for short-term debt set forth in section III.E. above to: (a) Invest surplus funds and/or lend and extend credit to the Money Pool and (b) to borrow from the Money Pool.

Applicants state that the effective cost of short-term borrowings under the Money Pool will generally be as favorable to the Participating Subsidiaries than the comparable cost of external short-term borrowings. Applicants state that the investment rate paid to Participating Subsidiaries that invest surplus funds in the Money Pool will generally be higher than the typical yield on short-term money market investments. Applicants state that, under the Money Pool agreement ("Money Pool Agreement"), short-term funds are available from the following sources for short-term loans to the Participating Subsidiaries from time to time: (a) Surplus funds in the treasuries of Participating Subsidiaries and (b) proceeds received by National Grid Transco and National Grid USA from the sale of commercial paper, borrowings from banks and other lenders, and other financing arrangements ("External Funds"). Applicants state that funds are made available from sources in the order that ServiceCo, as the administrative agent under the Money Pool Agreement, determines would result in a lower cost of borrowing, consistent with the individual borrowing needs and financial standing of the Participating Subsidiaries.

Applicants state that Participating Subsidiaries authorized to borrow from the Money Pool ("Eligible Borrowers") will borrow *pro rata* from each lending Participating Subsidiary in the proportion that the total amount invested by each Participating Subsidiary bears to the total amount then invested in the Money Pool. The interest rate charged to Eligible Borrowers on borrowings under the Money Pool will be as follows:

(a) A borrower with a commercial paper credit rating or an investment grade bond rating ("Commercial Paper Issuer") will pay interest at a rate equal to the weighted monthly average of the rates on its outstanding commercial paper;

(b) During any month when a Commercial Paper Issuer has no commercial paper outstanding, the rate will be the monthly average of the rate for high grade 30-day commercial paper sold through dealers by major corporations as published in the Wall Street Journal. The rate to be used for weekends and holidays will be the next preceding published rate.

(c) An Eligible Borrower other than Commercial Paper Issuers will pay interest at a rate of 1.08 times the rate described in paragraph (b). In no event will the rate be greater than the monthly average of the Base Lending Rate of Fleet Boston.

Applicants state that funds not required by the Money Pool to make loans (with the exception of funds required to satisfy the Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments, including: (a) Obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities; (b) commercial paper; (c) certificates of deposit; (d) bankers' acceptances; (e) repurchase agreements; (f) tax exempt notes; (g) tax exempt bonds; (h) tax exempt preferred stock; and (i) such other investments as are permitted by section 9(c) of the Act and rule 40 thereunder.

Applicants state that the interest income and investment income earned on loans and investments of surplus funds would be allocated among those Money Pool participants that have invested funds in accordance with the ratio of the surplus funds contributed by each participant to the total surplus funds invested in the Money Pool. Applicants state that each Eligible Borrower receiving a loan through the Money Pool would be required to repay the principal amount of the loan, together with all interest accrued, on demand and in any event within one year after the date of the loan. All loans made through the Money Pool may be prepaid by the borrower without premium or penalty and without prior notice.

Applicants state that proceeds of any short-term borrowings from the Money Pool may be used by an Eligible Borrower: (a) For the interim financing of its construction and capital expenditure programs; (b) for its working capital needs; (c) for the repayment, redemption or refinancing of its debt and preferred stock; (d) to meet unexpected contingencies, payment and timing differences, and cash requirements; and (e) to otherwise

finance its own business and for other lawful general corporate purposes.

III. Guarantees

National Grid Transco requests authorization to provide guarantees ("Guarantees") with respect to debt securities or other contractual obligations of any Subsidiary as may be appropriate in the ordinary course of the Subsidiary's business, in an aggregate principal or nominal amount not to exceed $20 billion ("NGT Guarantee Limit") at any one time outstanding, provided however, that the amount of any Guarantees in respect of obligations of any Subsidiaries shall also be subject to the limitations of rule 53(a)(1) or rule 58(a)(1), as applicable.

National Grid Transco states that Guarantees may take the form of, among others, direct guarantees, reimbursement undertakings under letters of credit, "keep well" undertakings, agreements to indemnify, expense reimbursement agreements, and credit support with respect to the obligations of the Subsidiaries as may be appropriate to enable Subsidiaries to carry on their respective authorized or permitted businesses. Any Guarantee that is outstanding at the end of the Authorization Period shall remain in force until it expires or terminates in accordance with its terms.

National Grid Transco states that any Guarantee provided to a Financing Subsidiary will comply with the Financing Parameters and will count against the NGT External Limit. To avoid double counting, Applicants propose that the amount of any Guarantee with respect to securities issued by a Financing Subsidiary will not also be counted against the proposed limit on Guarantees.

Applicants state that Guarantees may be provided to support obligations of Subsidiaries that are not readily susceptible of exact quantification or that may be subject to varying quantification. In these cases, National Grid Transco will determine the exposure under that Guarantee for purposes of measuring compliance with the proposed limitation on Guarantees by appropriate means, including estimation of exposure based on loss experience or projected potential payment amounts. If appropriate, estimates will be made in accordance with GAAP and this estimation will be reevaluated periodically.

National Grid Transco requests authorization to charge each Subsidiary a fee for each Guarantee that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the Guarantee (for example, bank line commitment fees or letter of credit fees, plus other transactional expenses) for the period of time that it remains outstanding.

In addition, Applicants request authority for the Nonutility Subsidiaries, National Grid USA, NiMo Holdings, the Intermediate Companies, and NGH One to guarantee the indebtedness or contractual obligations and to otherwise provide credit support to associate companies. Guarantees provided by National Grid USA and NiMo Holdings in support of the external obligations of direct or indirect subsidiaries would not exceed $1 billion outstanding at any one time, in the aggregate, exclusive of any Guarantees and other forms of credit support that are exempt pursuant to rule 45(b) and rule 52(b), provided however, that the amount of Guarantees in respect of obligations of any Rule 58 Subsidiaries shall remain subject to the limitations of rule 58(a)(1). The company providing credit support may charge its associate company a fee for each Guarantee provided on its behalf determined in the same manner as specified above.

IV. Interest Rate and Currency Risk Management Devices

National Grid Transco proposes to enter into, perform, purchase and sell financial instruments intended to manage the volatility of currencies and interest rates, including but not limited to currency and interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements ("Hedging Instruments"). National Grid Transco would employ Hedging Instruments as a means of prudently managing the risk associated with any of its outstanding or anticipated debt by, for example, synthetically (a) converting variable rate debt to fixed rate debt, (b) converting fixed rate debt to variable rate debt, (c) limiting the impact of changes in interest rates resulting from variable rate debt, and (d) providing an option to enter into interest rate swap transactions in future periods for planned issuances of debt securities.

National Grid Transco proposes to enter into Hedging Instruments with respect to anticipated debt offerings ("Anticipatory Hedges"), to fix and/or limit the interest rate or currency exchange rate risk associated with any new issuance. In addition to the use of Hedging Instruments, Anticipatory Hedges may include: (a) A forward sale of exchange-traded government securities futures contracts, government securities and/or a forward swap (each a "Forward Sale"), (b) the purchase of put options on government securities ("Put Options Purchase"), (c) a Put Options Purchase in combination with the sale of call options on government securities ("Zero Cost Collar"), (d) transactions involving the purchase or sale, including short sales, of government securities, or (e) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar, and/or other derivative or cash transactions, including, but not limited to structured notes, caps, and collars appropriate for the Anticipatory Hedges. National Grid may seek to hedge its exposure to currency fluctuations through currency swaps or options and forward exchange or similar transactions.

Applicants state that Hedging Instruments and instruments used to effect Anticipatory Hedges will be executed on-exchange ("On-Exchange Trades") with brokers through the opening of futures and/or options positions, the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. National Grid Transco will determine the optimal structure of each transaction at the time of execution. Off-Exchange Trades would be entered into only with Intermediate Companies or with counterparties whose senior debt ratings are investment grade as determined by Standard & Poor's, Moody's Investors Service, Inc. or Fitch IBCA, Inc. ("Approved Counterparties").

The Utility Subsidiaries also propose to enter into Hedging Instruments with third-party Approved Counterparties, but not other National Grid Transco System companies, on the same terms generally applicable to National Grid Transco.[9] The Utility Subsidiaries expect to use this authority principally to hedge external debt.

The Intermediate Companies also request authorization to enter into currency derivatives with National Grid Transco and other Intermediate Companies for the purpose of managing their exposure to various currencies that may be used to finance their business.

National Grid Transco maintains a central treasury department whose

[9] Applicants state that the terms applicable to Hedging Instruments entered into by the Utility Subsidiaries differ from those applicable to National Grid Transco in that the Utility Subsidiaries will qualify Hedging Instruments entered into by the Utility Subsidiaries for hedge accounting treatment under U.S. GAAP. In addition, to the extent a Utility Subsidiary incurs a gain or loss on a Hedging Instrument that it has entered into to hedge a currency or interest rate risk associated with a security that the Utility Subsidiary has issued, the gain or loss would be attributed to the Utility Subsidiary.

activities are governed by policies and guidelines approved by the Board of Directors, with regular reviews and monitoring by a standing committee of the Board. The treasury department operates as a service center rather than as a profit center and is subject to internal and external audit. Treasury activities are managed in a non-speculative manner and all transactions in Hedging Instruments would be matched to an underlying business purpose. Consequently, Applicants state, National Grid Transco, the Intermediate Companies and the Utility Subsidiaries would not enter into transactions in Hedging Instruments for speculative purposes or to finance businesses that are not permitted, authorized or exempt under the Act. National Grid Transco will qualify transactions in Hedging Instruments for hedge-accounting treatment under GAAP in the U.S. or the UK. In the event transactions in Hedging Instruments are qualified for hedge accounting treatment under UK GAAP, but not under U.S. GAAP, National Grid Transco's financial statements filed with the Commission will contain a reconciliation of the difference between the two methods of accounting treatment as is required by Form 20–F. Applicants affirm that no gain or loss on a Hedging Instrument entered into by National Grid Transco or the Intermediate Companies, or associated tax effects, will be allocated to National Grid USA or NiMo Holdings or their subsidiaries, regardless of the accounting treatment accorded to the transaction and that National Grid USA, and its subsidiaries would not be adversely affected by these transactions.

V. Payment of Dividends Out of Capital or Unearned Surplus

By order dated March 15, 2000 (HCAR No. 27154) ("March 2000 Order") and also in the January 2002 Order, the Commission authorized, subject to certain conditions, the payment of dividends out of capital and unearned surplus of National Grid USA and its Utility and Nonutility Subsidiaries. As to the Utility Subsidiaries, dividends were permitted to be paid out of capital and unearned surplus in an amount equal to the retained earnings of each subsidiary prior to the mergers of National Grid Transco's predecessors with New England Electric System and NiMo Holdings. In addition, the March 2000 Order and January 2002 Order stated that the amortization or write down of goodwill could be ignored in calculating earnings available for the payment of dividends after the mergers.

Applicants request that the Utility Subsidiaries continue to be authorized to pay dividends out of capital or unearned surplus in an amount up to: (a) The amount of any retained earnings of the subsidiary prior to the mergers authorized in the January 2002 Order (with respect to Niagara Mohawk) and the March 2000 Order (with respect to all other Utility Subsidiaries), and (b) the amount of any goodwill impairment charge. Consequently, "Income Available for Dividends" would be calculated by starting with the amount of pre-merger retained earnings that had not already been paid in previous periods, adding any post-merger retained earnings, and adding any current period income grossed up for non-cash charges to income resulting from a determination that goodwill has been impaired.

In addition, the January 2002 Order further authorized Niagara Mohawk to calculate "Income Available for Dividends," by excluding non-cash charges to income resulting from accounting changes or charges to income resulting from significant unanticipated events.

Applicants now request that the Commission continue to authorize this variation in the calculation of Income Available for Dividends for Niagara Mohawk alone, consistent with the January 2002 Order. Applicants state that the Utility Subsidiaries would not pay dividends out of capital or unearned surplus if the effect of the dividend would be to reduce capitalization to less than 30% equity as a percentage of total capitalization or to reduce a rated Utility Subsidiary to below investment grade.

Applicants also seek authorization for the Nonutility Subsidiaries to pay dividends from time to time through the Authorization Period, out of capital and unearned surplus, to the extent permitted under applicable corporate law and the terms of any credit agreements and indentures that restrict the amount and timing of distributions to shareholders. In addition, Applicants state that none of the Nonutility Subsidiaries will declare or pay any dividend out of capital or unearned surplus unless it: (a) Has received excess cash as a result of the sale of some or all of its assets, (b) has engaged in a restructuring or reorganization, and/or (c) is returning capital to an associate company.

VI. Changes in Capitalization of Majority-Owned Subsidiaries

Applicants state that the portion of an individual Subsidiary's aggregate financing to be effected through the sale of stock to National Grid Transco or other immediate parent company during the Authorization Period under rule 52 and/or under an order issued by the Commission cannot be ascertained at this time. The proposed sale of capital securities (*i.e.*, common stock or preferred stock) may in some cases exceed the then authorized capital stock of the Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value.

Applicants request authorization to change the terms of any 50% or more owned Subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by National Grid Transco or other intermediate parent company, provided that the consents of all other shareholders have been obtained for the proposed change. This request for authorization is limited to National Grid Transco's 50% or more owned Subsidiaries and will not affect the aggregate limits or other conditions contained herein. A Subsidiary would be able to change the par value, or change between par value and no-par stock, or change the form of equity from common stock to limited partnership or limited liability company interests or similar instruments, or from instruments to common stock, without additional Commission approval. Additional terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. Any action of this kind by a Utility Subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commission in the state or states where the Utility Subsidiary is incorporated and doing business. National Grid Transco will be subject to all applicable laws regarding the fiduciary duty of fairness of a majority shareholder to minority shareholders in any 50% or more owned Subsidiary and will undertake to ensure that any change implemented under this paragraph comports with such legal requirements.

VII. Financing Entities

National Grid Transco currently owns the stock of NGG Finance plc which assists in the financing of National Grid Transco and its Subsidiaries. Applicants request authorization to organize and acquire the securities of Financing Subsidiaries in the form of one or more additional corporations, trusts, partnerships or other entities, to finance the business of the respective founding company or its subsidiaries. A Financing Subsidiary would be used to finance the authorized or permitted businesses of its direct or indirect

parent company ("Founding Parent"), including the businesses of the National Grid USA Group, but in no event would a Financing Subsidiary engage in prohibited upstream loans involving companies in the National Grid USA Group. Financing Subsidiaries may issue any securities that the Founding Parent would be authorized to issue under the terms of this Application as authorized by the Commission, or Commission rule, regulation or order under the Act. Applicants also request authorization to issue securities to a Financing Subsidiary to evidence the transfer of financing proceeds by a Financing Subsidiary to a company receiving financing. Applicants state that the terms of the securities issued to a Financing Subsidiary would typically be designed to service the obligations of the Financing Subsidiary under the securities that it has issued.

As noted above, a Financing Subsidiary would raise funds and finance the businesses of its Founding Parent company, or the subsidiaries thereof, as authorized and permitted under the Act. A Financing Subsidiary would finance these companies on terms and conditions applicable to financings conducted by its parent as set forth in this Application or permitted by rule, regulation, or order of the Commission. Applicants state, for example, NGG Finance plc may finance an Intermediate Company at market rates, but a financing of National Grid USA or its subsidiaries must be in accordance with the Best Rate Method.

Securities issued by Financing Subsidiaries to third parties would count against issuance limits set forth in this Application that are applicable to the Founding Parent of the Financing Subsidiary. To avoid double counting, securities or Guarantees issued by the Founding Parent to the Financing Subsidiary would not count against the Founding Parent's respective issuance limits.

National Grid Transco and its Subsidiaries also request authorization to enter into support or expense agreements ("Expense Agreement") with Financing Subsidiaries to pay the expenses of any such entity. In cases where it is necessary or desirable to ensure legal separation for purposes of isolating the Financing Subsidiary from its parent or another Subsidiary for bankruptcy purposes, the ratings agencies may require that any Expense Agreement whereby the parent or Subsidiary provides financing related services to the Financing Subsidiary be at a price, not to exceed a market price, consistent with similar services for parties with comparable credit quality and terms entered into by other companies so that a successor service provider could assume the duties of the parent or Subsidiary in the event of the bankruptcy of the parent or Subsidiary without interruption or an increase of fees. Applicants seek approval under section 13(b) of the Act and rules 87 and 90 to provide the services described in this paragraph at a charge not to exceed a market price but only for so long as such Expense Agreement established by the Financing Subsidiary is in place.

VIII. FUCO Financing Limits

Applicants propose that National Grid Transco use the proceeds of the financings proposed in this Application, in part, for investments in FUCOs.[10] In the October 2002 Order, National Grid Transco was authorized to issue securities to finance additional FUCO investments and operations up to a total aggregate investment of $20 billion. Applicants state that they have current investments in FUCOs of approximately $14.9 billion. National Grid Transco now seeks to use the authorization requested in this Application to issue up to $20 billion of securities during the Authorization Period for the purpose of financing additional FUCO investments beyond its current $14.9 investment. Applicants do not seek authorization to invest in exempt wholesale generators, as that term is defined in section 33 of the Act.

IX. Intermediate Subsidiaries and Nonutility Subsidiary Reorganizations

National Grid Transco proposes to acquire, directly or indirectly, the securities of one or more entities ("Intermediate Subsidiaries"), which would be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more FUCOs, Rule 58 Subsidiaries, exempt telecommunications companies as that term is defined in section 34 of the Act ("ETCs") or other non-exempt Nonutility Subsidiaries (as authorized in this proceeding or in a separate proceeding), provided that Intermediate Subsidiaries may also engage in administrative activities ("Administrative Activities") and development activities ("Development Activities"), as those terms are defined below, relating to those subsidiaries.

Applicants state that Administrative Activities include ongoing personnel, accounting, engineering, legal, financial, and other support activities necessary to manage National Grid Transco's investments in Nonutility Subsidiaries. Applicants state that Development Activities will be limited to due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and other preliminary activities as may be required in connection with the purchase, acquisition, financing or construction of facilities or the acquisition of securities of or interests in new businesses.

An Intermediate Subsidiary may be organized, among other things, (a) in order to facilitate the making of bids or proposals to develop or acquire an interest in any FUCO, Rule 58 Subsidiary, ETC or other nonutility subsidiary, (b) after the award of a bid proposal, in order to facilitate closing on the purchase or financing of such acquired company, (c) at any time subsequent to the consummation of an acquisition of an interest in any such company in order, among other things, to effect an adjustment in the respective ownership interests in such business held by National Grid Transco and non-affiliated investors, (d) to facilitate the sale of ownership interests in one or more acquired Nonutility Subsidiaries, (e) to comply with applicable laws of foreign jurisdictions limiting or otherwise relating to the ownership of domestic companies by foreign nationals, (f) as a part of tax planning in order to limit National Grid Transco's exposure to taxes, (g) to further insulate National Grid Transco and the Utility Subsidiaries from operational or other business risks that may be associated with investments in Nonutility Subsidiaries, or (h) for other lawful business purposes.

Applicants propose that investments in Intermediate Subsidiaries may take the form of any combination of the following: (a) Purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests, (b) capital contributions, (c)

[10] Applicants propose that a reorganization of existing FUCO investments that results in an increased FUCO investment for accounting purposes as a result of the recognition of the market value of transferred FUCO interests would not be counted as an increased FUCO investment if National Grid Transco did not actually make a cash investment in, or increase its guarantee exposure to, a FUCO subsidiary.

open account advances with or without interest, (d) loans, and (e) Guarantees issued, provided or arranged in respect of the securities or other obligations of any Intermediate Subsidiaries. Funds for any direct or indirect investment in any Intermediate Subsidiary will be derived from: (a) Financings authorized in this proceeding, (b) any appropriate future debt or equity securities issuance authorization obtained by National Grid Transco from the Commission, and (c) other available cash resources, including proceeds of securities sales by Nonutility Subsidiaries under rule 52. Applicants state that, to the extent that National Grid Transco provides funds or Guarantees directly or indirectly to an Intermediate Subsidiary that are used for the purpose of making an investment in any FUCO or a Rule 58 Subsidiary, the amount of the funds or Guarantees will be included in National Grid Transco's "aggregate investment" in those entities, as calculated in accordance with rule 53 or rule 58, as applicable.

National Grid Transco requests authorization to consolidate or otherwise reorganize all or any part of its direct and indirect ownership interests in Nonutility Subsidiaries, and the activities and functions related to such investments. To effect any such consolidation or other reorganization, National Grid Transco may wish to either contribute the equity securities of one Nonutility Subsidiary to another Nonutility Subsidiary (including a newly formed Intermediate Subsidiary) or sell (or cause a Nonutility Subsidiary to sell) the equity securities or all or part of the assets of one Nonutility Subsidiary to another one. National Grid Transco requests authorization to consolidate or otherwise reorganize, under one or more direct or indirect Intermediate Subsidiaries, National Grid Transco's ownership interests in existing and future Nonutility Subsidiaries. Applicants state that these transactions may take the form of a Nonutility Subsidiary selling, contributing, or transferring the equity securities of a subsidiary or all or part of a subsidiary's assets as a dividend to an Intermediate Subsidiary or to another Nonutility Subsidiary, and the acquisition, directly or indirectly, of the equity securities or assets of a subsidiary, either by purchase or by receipt of a dividend. The purchasing Nonutility Subsidiary in any transaction structured as an intrasystem sale of equity securities or assets may execute and deliver its promissory note evidencing all or a portion of the consideration given. Each transaction would be carried out in compliance with all applicable U.S. or foreign laws and accounting requirements. In addition, in the event that proxy solicitations are necessary with respect to any corporate reorganization, Applicants state that they will seek Commission approvals as necessary under section 6(a)(2) and 12(e) of the Act through the filing of a declaration.

National Grid Transco requests authorization to make expenditures on Development Activities, as defined above, in an aggregate amount of up to $600 million. National Grid Transco proposes a "revolving fund" for permitted expenditures on Development Activities. Thus, Applicants propose, to the extent a Nonutility Subsidiary in respect of which expenditures for Development Activities were made subsequently becomes a FUCO or qualifies as an "energy-related company" under Rule 58, the amount so expended will cease to be considered an expenditure for Development Activities, but will instead be considered as part of the "aggregate investment" in such entity under rule 53 or 58, as applicable.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–2068 Filed 9–2–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50283; File No. SR–Amex–2003–82]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Relating to Auto-Match

August 27, 2004

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 9, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which items have been prepared by the Amex. On August 16, 2004, the Amex 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add Commentary .04 to Amex Rule 933 for the purpose of enhancing the Auto-Match feature of the Amex Order Display Book ("AODB") and to amend Amex Rule 590 to include the failure to sign on and use Auto-Match in the Minor Rule Violation Fine System. Proposed new text is *italicized*, and proposed deletions are [bracketed].

* * * * *

Rule 590. Minor Rule Violation Fine Systems

Part 1 General Rule Violations

(a)–(f) No Change.

(g) The Enforcement Department may impose fines according to the following schedule for the rule violations listed below:

• *Failure to sign on and use the Auto-Match feature of the Amex Options Display Book*

* * * * *

Rule 933. Automatic Execution of Options Orders

(a) No Change.

(b) Broker-dealer orders entered through the Exchange's order routing system will not be automatically executed against orders in the limit order book *unless permitted on a class-by-class basis by the appropriate Options Floor Procedure Committee*. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to the Amex Options Display Book (AODB) for execution *unless permitted to be automatically executed on a class-by-class basis by the appropriate Options Floor Procedure Committee.*

(c) through (h) No Change.

Commentaries

.01 through .03 No Change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 13, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange modified proposed Commentary .04 to Amex Rule 933 by providing that orders of a broker-dealer that submitted a customer order for placement on the limit order book, orders from affiliates of a broker-dealer, or orders solicited by a broker-dealer from member or non-member broker-dealers may not execute against the customer limit order on the limit order book, unless the customer limit order is exposed on the book for at least 30 seconds. The Exchange also represented that, similar to the Exchange's automatic execution system ("Auto-Ex"), orders executed through Auto-Match will be at the current national best bid or offer ("NBBO") so that such orders do not trade through the NBBO.

.04. Auto-Ex eligible orders that by-pass Auto-Ex pursuant to Rule 933(f)(i)(F) will be automatically matched and executed with orders in the limit order book representing the best bid or offer ("Auto-Match"). Specialists are required to use the Auto-Match feature for all option classes in which such specialist is registered. The failure to sign on to Auto-Match is a rule violation subject to the Minor Rule Violation Plan set forth in Rule 590(g). The Auto-Match feature operates in the following manner:

- *If the size of the by-passed Auto-Ex eligible order is less than the size of the customer limit order representing the best bid or offer in the limit order book (the "Auto-Match Order"), the entire Auto-Ex eligible order will be executed against the Auto-Match Order.*
- *If the size of the by-passed Auto-Ex eligible order is greater than the size of the Auto-Match Order, the Auto-Ex eligible order will be executed against the Auto-Match Order for the number of contracts of the Auto-Match Order. The remaining contracts of the Auto-Ex eligible order would then be routed to the specialist for manual handling or subject to Quick Trade, if applicable.*
- *Auto-Match will not be engaged if Auto-Ex is disengaged due to market delays, unusual markets or system malfunctions pursuant to Rule 933(f)(i)(A)–(D).*
- *In classes of options where broker-dealer orders are permitted to be automatically executed against orders in the limit order book pursuant to Rule 933(b) above, neither proprietary orders of an order entry firm that submitted a customer order for placement in the limit order book, orders from any affiliated firm with such order entry firm, or orders solicited by the order entry firm from members or non-member broker-dealers, may execute against the customer order on the book unless the customer order on the book is exposed for at least thirty (30) seconds. It shall be a violation of this Rule for any member or member organization to be party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer, member or non-member broker-dealer to execute immediately against an agency order delivered to the Exchange, whether such orders are delivered electronically or represented in the trading crowd by a member or member organization.*

.05 For purposes of the Rule, the term "order entry firm" means a member organization of the Exchange that is able to route orders through the Exchange's order routing system.

* * * * *

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 Amex 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. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In April 2000, the Exchange enhanced the AODB to provide for automatic matching and execution of limit orders on the specialist's book representing the displayed best bid or offer in select option classes ("Auto-Match"). The Auto-Match functionality provides that limit orders residing on the AODB are automatically matched and executed with market or marketable limit orders that have by-passed the Exchange's Auto-Ex at the limit order's displayed best bid or offer.[4]

As originally proposed, Auto-Match was to be used in selected less-active option classes.[5] At that time, the Exchange indicated that after it had gained experience with Auto-Match, the program would be reviewed in consultation with the membership to determine whether Auto-Match should be expanded to additional option classes.[6] The Exchange represents that Auto-Match has never been used or expanded as originally intended. The Exchange believes that the proposed enhancements to Auto-Match and the evolving nature of the options market supports an expansion of the feature as detailed below.

The Exchange submits that an expansion of Auto-Match is necessary given the current competitive environment, and therefore, believes the limited nature of Auto-Match should be expanded to provide faster, more efficient execution of market and marketable limit orders as well as more efficient handling of limit orders on the specialist's book. As a result, the Exchange proposes to add Commentary .04 to Amex Rule 933 in order to significantly enhance the current Auto-Match feature as follows.

First, Auto-Match would be expanded to all option classes traded on the Exchange. Second, specialist participation in Auto-Match would be mandatory. Third, Auto-Match would be enhanced to provide the ability to automatically match and *partially execute* an incoming Auto-Ex eligible order when the disseminated limit order is for less contracts than the incoming Auto-Ex eligible order. In such a situation, the remaining contracts of the incoming Auto-Ex eligible order would be routed to the specialist AODB ACK Box[7] for manual handling. Fourth, Auto-Match would be disengaged if the Exchange's Auto-Ex system is disengaged or operated in a manner other than the normal manner, due to market data delays, unusual markets, or system malfunctions pursuant to Amex Rule 933(f)(i)(A)–(D). Finally, in classes of options where broker-dealer orders are permitted to be automatically executed against orders in the limit order book pursuant to proposed Amex Rule 933(b), the Exchange proposes that neither proprietary orders of an order entry firm that submitted a customer order for placement in the limit order book, orders from any affiliated firm with such order entry firm, or orders solicited by the order entry firm from members or non-member broker-dealers could execute against the customer order on the book, unless the customer order on the book is exposed for at least thirty (30) seconds.[8] Furthermore, the Exchanges proposes that it would be a violation for any member or member organization to be party to any arrangement designed to circumvent this rule by providing an opportunity for a customer, member, or non-member broker-dealer to execute immediately against an agency order delivered to the Exchange, whether such orders are delivered electronically or represented in the trading crowd by a member or member organization.[9] The Exchange believes that these changes to Auto-Match would benefit market

[4] Auto-Ex is by-passed pursuant to Amex Rule 933(f)(i)(F) in the following situations: (1) Whenever the bid or offer in a specific option series represents a limit order on the specialist's book; (2) whenever a crossed or locked market causes an inversion in the quote; and (3) whenever a better bid or offer is being disseminated by another options exchange and the order is not eligible for automatic price matching as set forth in Commentary .01(b).

[5] *See* Securities Exchange Act Release No. 42652 (April 7, 2000), 65 FR 20235 (April 14, 2000).

[6] *Id.*

[7] The "Acknowledgement Box" or "ACK Box" is a feature of the AODB that displays incoming market executable limit orders as well as any other orders directed by filter settings. Orders in the ACK BOX are displayed in the trading crowd by means of overhead screens.

[8] *See* Amendment No. 1, *supra* note 3.

[9] *Id.*

participants by providing greater certainty and efficiency in the handling of options orders.

As previously stated, the AODB is the specialist's electronic book which provides for the handling of options orders and the executing and reporting of options transactions. Limit orders that better the current displayed bid or offer become the Amex's displayed best bid or offer, and it is at these prices that market orders to buy or sell are executed. However, when the displayed best bid or offer is represented by a limit order, market and marketable limit orders sent through the Amex Order File ("AOF") to Auto-Ex for execution at the displayed bid or offer will by-pass Auto-Ex and be sent directly to the AODB for handling and execution by the specialist with the limit order as contra-party to the trade.[10] The Auto-Ex system is by-passed in these situations in order to prevent the specialist and any registered options traders ("ROTs") signed on as contra-parties to transactions executed on Auto-Ex from trading ahead of customer limit orders on the specialist's book, in violation of Amex Rules 950(c) and (d).

The Auto-Match feature currently operates as follows. If the customer limit order representing the best bid or offer displayed in the AODB (the "Auto Match Order") is a greater size than the inbound order, the entire incoming order is executed against the Auto-Match Order. The remaining contracts on the book continue to reside on the AODB until canceled, replaced by a more competitive bid or offer, or completely executed. If the inbound order is greater than the Auto-Match Order represented on the AODB, the entire order is routed to the specialist for manual handling and by-passes Auto-Match. For example, if the best bid is represented by a limit order to buy 10 contracts in an option class whose Auto-Ex eligible size is 20 contracts, a market order of 20 contracts to sell will be routed to the AODB with the entire order of 20 contracts executed by the specialist without the use of the Auto-Match feature.[11] The new proposal will provide that if the size of an incoming order is greater than the Auto-Match Order, Auto-Match would automatically match and execute the limit orders residing on the AODB with the incoming order. Any remaining contracts would be allocated via Quick Trade, if applicable, to the ROTs and specialist,[12] or routed to the specialist for manual handling.

Since the introduction of Auto-Match in April 2000, there have been no option classes that have employed the Auto-Match system. Specialists have chosen not to use Auto-Match based on the belief that the inability to provide partial executions renders the system unattractive. For example, if an inbound order exceeds the size of the Auto-Match Order, the current system will send the entire order to the specialist for manual handling. Because an eligible Auto-Ex order size can be as large as 500 contracts (1,000 contracts for the QQQ option), Auto-Match, in many cases, will not operate because the Auto-Match Order will be less than the incoming order.

Therefore, the Exchange's proposal would modify Auto-Match to provide a partial execution, so that if the inbound order is greater than the Auto-Match Order, Auto-Match would execute the Auto-Match Order and route the remaining contracts to the specialist AODB ACK Box for manual handling. As noted above, the Quick Trade function of AODB, if applicable, would automatically allocate the remaining contracts to the ROTs and specialist based upon a pre-set allocation ratio. The Exchange represents that its staff would conduct periodic reviews to ensure that specialists are employing Auto-Match. In connection with these reviews, any failure to sign on and use Auto-Match would be a violation of Amex Rule 590 and handled by the Exchange's Enforcement Department as part of the Minor Rule Violation Fine System. Finally, the Exchange proposes to permit certain broker-dealer Auto-Ex orders to execute against orders in the limit order book via Auto-Match.[13] In classes of options where broker-dealer orders would be permitted to be automatically executed against orders in the limit order book pursuant to Amex Rule 933(b), the Exchange's proposal would prohibit proprietary orders of an order entry firm that submitted a customer order for placement in the limit order book, orders from any affiliated firm with such order entry firm, or orders solicited by the order entry firm from members or non-member broker-dealers from executing against the customer order on the book, unless the customer order on the book is exposed for at least thirty (30) seconds.[14]

The Exchange believes that the proposed revision to Auto-Match would provide for faster, more efficient executions of market and marketable limit orders, as well as more efficient handling of limit orders on the specialist's book. More importantly, it would also assure that the limit order on the specialist's book would retain its priority over the specialist and ROTs. Thus, the proposed rule change would benefit customers using the Auto-Ex system, as well as those customers whose orders are on the specialist's book.

2. Statutory Basis

The Exchange believes that its proposed rule change, as amended, is consistent with section 6(b) of the Act,[15] in general, and furthers the objectives of section 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change, as amended, will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change, as amended.

[10] As discussed above, this process of routing the Auto-Ex order to the limit order book and executing it against a customer limit order in the book is automated via Auto-Match. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex and Kelly Riley, Assistant Director, Division, Commission (August 27, 2004).

[11] The Quick Trade feature of AODB, if applicable, automatically allocates trades to ROTs and the specialist. If there are remaining contracts of an Auto-Ex eligible order after Auto-Match is completed, Quick Trade would distribute the remaining excess among the ROTs and specialist. *See* Securities Exchange Act Release No. 45974 (May 22, 2002), 67 FR 37886 (May 30, 2002) and 45180 (December 20, 2001) 66 FR 67585 (December 31, 2001).

[12] For example, assume that the best bid is represented by a limit order to buy 20 contracts in an option class in which the Auto-Ex eligible size is 50 contracts. A market order of 50 contracts to sell would by-pass Auto-Ex and be routed to the AODB. 20 contracts would be matched and executed with the limit order on the AODB, and the remaining 30 contracts would be allocated through Quick Trade to the specialist and ROTs according to the allocation ratios set forth in the Amex Rule. *See* Commentary .07 to Rule 950(d).

[13] Amex proposes that the appropriate Options Floor Procedure Committee would determine in which classes broker-dealer orders can be automatically executed against orders in the limit order book.

[14] *See* Amendment No. 1, *supra* note 3.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2003–82 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2003–82. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 also will be available for inspection and copying at the principal offices of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2003–82 and should be submitted on or before September 24, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–2067 Filed 9–2–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50287; File No. SR–BSE–2004–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 Thereto by the Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program

August 27, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 21, 2004, 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, II, and III below, which items have been prepared by the BSE. On July 26, 2004, BSE submitted Amendment No. 1 to the proposed rule change.[3] On August 25, 2004, BSE submitted Amendment Nos. 2[4] and 3[5] 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

BSE seeks to amend its rules concerning its Specialist Performance Evaluation Program ("SPEP"). Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

Chapter XV

Specialists

Specialist Performance Evaluation Program

SEC. 17

(a) All Specialists shall be subject to regular [performance] evaluation [designed to identify areas of performance needing improvement]. The Specialist Performance Evaluation Program shall be administered by the Exchange, subject to the supervision of the Market Performance Committee. *The Market Performance Committee will determine, from time to time as it deems necessary, which measures under Rule 11Ac1–5 ("Rule 5") of the Act shall be used to evaluate Exchange specialists, and the threshold levels of performance against which specialist will be evaluated in each of the relevant Rule 5 measurements. Measurements and threshold levels will be communicated to all members via Floor Memoranda on a periodic basis, at least thirty days in advance, at least each time a new Rule 5 measurement is chosen, or a new threshold established. Specialists will be evaluated for competitive stock allocation purposes and any other purposes for which the Market Performance Committee deems it necessary and/or prudent to have objective standards by which it can evaluate all Exchange specialists equally.* Any Specialist whose performance is below acceptable levels established by the Market Performance Committee shall be subject to specific improvement actions as determined by the Market Performance Committee as set forth in paragraphs 2156.10 through 2156.80.

(b) In the event that the performance of a Specialist is below acceptable performance levels, notice of such fact shall be given to the Specialist.

(c) Set forth below are the conditions warranting performance improvement action:

(i) Any Specialist who receives a deficient score in one objective measure in any review period shall be deemed to have a deficient performance, and shall

---

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John Boese, Vice President, Chief Regulatory Officer, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 22, 2004 and accompanying Form 19b–4 ("Amendment No. 1"). Amendment No. 1 replaced and superceded the originally filed proposed rule change.

[4] *See* letter from John Boese, Vice President, Chief Regulatory Officer, BSE, to Nancy Sanow, Assistant Director, Division, Commission, dated August 18, 2004 ("Amendment No. 2"). Amendment No. 2 replaced and superceded BSE Rule Chapter XV, Section 17, Paragraph (a) of the previously filed proposed rule change.

[5] *See* letter from John Boese, Vice President, Chief Regulatory Officer, BSE, to Nancy Sanow, Assistant Director, Division, Commission, dated August 19, 2004 ("Amendment No. 3"). Amendment No. 3 replaced and superceded BSE Rule Chapter XV, Section 17, Paragraph (a) of the previously filed proposed rule change.

be required to attend an informal meeting with the [Performance Improvement Action]*Market Performance* Committee to discuss possible methods of improving his/her performance. *If a*[A]ny Specialist [who] receives a deficient score in any one objective measure for two out of three consecutive review periods, [shall be required to appear before] the Market Performance Committee[, which] shall take such actions as it deems necessary and appropriate to address the deficient score, including imposing actions as specified in the Supplemental Material.

(ii) Those Specialists that fall below the threshold level for the overall performance evaluation program in any evaluation review period shall be required to appear before the Market Performance Committee, which shall take such actions it deems necessary and appropriate to address the deficient performance. (See Supplemental Material for possible actions.)

[(iii) Exceptions. Where Specialists have threshold scores in each measure at the following levels (subject to change pursuant to Commission approval), they will be deemed to have adequately performed:

Overall Evaluation Score—at or above weighted score of 5.00
Turnaround Time—below 21.0 seconds (5 points) (5%)
Holding Orders Without Action—below 21.0% (5 points) (5%)
Price Improvement in <8th Markets—at or above 2.0% (5 points) (20%)
Price Improvement in 8th Markets—at or above 15.0% (5 points) (15%)
Price Improvement in >8th Markets—at or above 25.0% (5 points) (15%)
Depth—at or above 75.0% (5 points) (20%)
Added Depth—at or above 1.0% (5 points) (20%)]

(d) The Specialist shall be notified in writing of the basis for such action and shall have an opportunity to submit a written reply no later than ten days after the receipt of such notice.

(e) The Specialist shall also have an opportunity to be heard upon the specific grounds to be considered before the Market Performance Committee and a written record of any such hearing shall be maintained. Following any such proceeding, the Market Performance Committee will inform the Specialist in writing of its decision and any actions to be imposed, and its reasons therefore. The decision of a majority of the members of that Committee shall be final, subject to the power of the Board of Governors to review such decision in accordance with the provisions of Article II, Section 6 of the Constitution.

Supplementary Material

.10 Stock Reallocation—Notice of Particular Stock—Together with written notice of the specific grounds to be considered as the basis for withdrawal of approval, the Market Performance Committee will give the member written notice of the particular stock or stocks to be considered for withdrawal of approval and give a written explanation of the basis on which the stock or stocks were selected.

.20 Stock Reallocation—Selection of Particular Stocks—In designating a particular stock or stocks to be considered as the basis for withdrawal of approval, the Market Performance Committee shall consider indications of weaknesses in specialist performance in individual stocks to the extent such indications are available. Such indications of weak performance may include, among other factors, references to a particular stock by those responding to initial or supplemental evaluation questionnaires, references in such questionnaires to weaknesses in performance of a type which relate to a particular stock or groups of stocks, and/or indications of weaknesses as demonstrated by the objective measures in such stock or stocks.

When the available measures of Specialist performance indicate weak performance generally, and not precisely in any particular stock or stocks, the Market Performance Committee may decide nonetheless to withdraw approval for a particular stock or stocks. In any case, the Market Performance Committee will exercise its best judgment to select a stock or stocks as to which a reallocation by the Stock Allocation Committee is likely to result in improved Specialist performance.

.30 Trading and/or Alternate Specialist Account Suspension—A Specialist that meets a condition for review subject to the Specialist Performance Evaluation Program criteria after one review period resulting in a deficient score for the overall evaluation program or for two review periods with a deficient score in any one objective measure shall be put on notice that approval for his or her trading account or Alternate Specialist Account may be suspended if the Specialist receives a deficient score in the subsequent review period and may continue until the Specialist's scores meet the threshold levels as set forth in Paragraph 2156(d).

.40 Other Action—The Market Performance Committee, in addition to the foregoing actions, may take such other action as it deems appropriate to address deficient performance of a Specialist.

.50 While reallocated stocks will not be restored upon the improved performance of a Specialist, a Specialist may, with the approval of the Market Performance Committee, have lifted one or more of the actions previously imposed.

.60 The Market Performance Committee, in determining which action(s) should be applied against a deficient Specialist, will use the following guidelines to determine the order of actions, but in its discretion may apply them in any order or may apply more than one in a given situation:

(i) Suspension of trading account privilege.

(ii) Suspension of Alternate Specialist account privilege.

(iii) Stock reallocation.

.70 In the event that a Specialist is ranked in the bottom ten percent but does not fall below the threshold level for the overall evaluation program, Exchange staff will review the performance of the Specialist to determine if there is sufficient reason to warrant informing the [Performance Improvement Action]*Market Performance* Committee of potential performance problems.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The rules governing the Exchange's SPEP program, set forth in Chapter XV, Dealer-Specialists, Section 17, Specialist Performance Evaluation Program, of the BSE Rules, were approved in their current form in 1998,[6] primarily for use

[6] *See* Securities Exchange Act Release No. 39730 (March 6, 1998), 63 FR 12847 (March 16, 1998) (File No. SR–BSE–97–09). Telephone conversation between John Boese, Vice President, Chief Regulatory Officer, BSE, and David Liu, Attorney, Division, Commission, on August 2, 2004.

in ranking BSE specialists for performance measurement and stock allocation purposes. The SPEP program currently operates on a pilot basis, with the current pilot approved through September 30, 2004.[7] The Exchange now believes that the SPEP program is outdated and redundant with several measures required under Rule 11Ac1–5 under the Act[8] ("Rule 5").[9] The BSE proposes to eliminate the current measurement standards set forth in its SPEP program and replace them with a ranking program based on statistics reported under Rule 5. The statistics to be utilized would vary from time to time, as determined by the Exchange's Market Performance Committee. The Market Performance Committee of the Exchange has approved the proposal to replace the current SPEP measurements with existing Rule 5 measurements.

The BSE states that the primary purpose for the replacement of the current SPEP measurements is the duplicative nature between them and the measurements required under Rule 5. Both SPEP and Rule 5 require that the BSE make available monthly reports of statistical information concerning Exchange specialists' order executions. The Exchange believes that this provides a means to evaluate the performance of specialists, which encourages visibility and competition, particularly on the factors of execution price and speed. According to the BSE, the rankings have also been utilized by the Exchange's Stock Allocation Committee as a consideration in competitive stock allocations.

SPEP currently measures 7 different categories against BSE floor averages, with threshold levels for each measure. Rule 5 has numerous categories, many of which correspond to the Exchange's SPEP measurements currently utilized. The categories currently measured in the SPEP program are:

Price Improvement—.01–.05
Price Improvement—.06–.15
Price Improvement—> ,15
Depth
Added Depth
Turnaround Time
Holding Orders w/o Actions

In comparison, Rule 5 has three main measurements (security, order type, and order size) each subcategorized by 11 smaller measurements. For market orders and marketable limit orders there are an additional 9 sub-measurements. The Exchange believes that the Rule 5 measurements provide a much broader view on which to base the performance of specialists. By utilizing existing statistics required under Rule 5, the BSE believes it would be expanding its current evaluation of specialists and avoiding repetition and confusion. For instance, instead of the current measurements, the Exchange could evaluate specialist performance in such Rule 5 measurements as those addressing average effective spread, price improvement, liquidity enhancement, away shares and time of execution.

The proposed rule text would not set forth specific Rule 5 measurements which will be utilized. Rather, the Exchange seeks to have the Market Performance Committee determine, from time to time as conditions warrant, which Rule 5 statistics would be utilized as measurement criteria for ranking specialists. The Market Performance Committee's determinations would be disseminated to all Exchange members via Floor Memorandum at least thirty days prior to their application, as is currently the practice.

The Exchange believes that its proposal would give the Market Performance Committee the flexibility to respond to market conditions or future changes in the Exchange's rules which may obviate or change the reason for a particular SPEP measurement. For example, according to the BSE, one of the primary reasons the BSE started the SPEP program was to provide its Stock Allocation Committee with an additional criteria during deliberations of competitive stock allocations. However, with the expansion of the Exchange's Competing Specialist Initiative, the instances of competitive stock allocations have been greatly reduced. The Exchange believes that future changes to the Exchange's rules may likewise render a particular SPEP measurement moot in favor of another Rule 5 measurement, or none at all. Therefore, the Exchange seeks to give its Market Performance Committee the ability to determine which Rule 5 statistics should be used to rank Exchange specialists, as necessitated by market conditions, rule changes or other factors.

The proposed rule change would leave intact the disciplinary procedures set forth throughout the SPEP rules. Although the Exchange believes that economic forces will compel specialists to maximize their performance so as to receive the benefits of directed order flow, the BSE also believes that there is some merit to providing for punitive and other actions to encourage specialists to perform at least at a threshold level.

Finally, the Exchange is also proposing to replace the Performance Improvement Action Committee in the rule text with the Market Performance Committee. The Performance Improvement Action Committee was a subcommittee of the Market Performance Committee which has been abolished, and its duties have been subsumed by the Market Performance Committee.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act[11] in general, and furthers the objectives of section 6(b)(5)[12] in particular, 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.

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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

[7] *See* Securities Exchange Act Release No. 49525 (April 2, 2004), 69 FR 18994 (April 9, 2004) (File No. SR–BSE–2004–12).

[8] 17 CFR 240.11Ac1–5.

[9] *See* Securities Exchange Act Release No. 43590 (November 17, 2000), 65 FR 75414 (December 31, 2000) (adopting Rule 5).

[10] The Performance Improvement Action Committee was abolished as of January 1, 2004. Telephone conversation between John Boese, Vice President, Chief Regulatory Officer, BSE, and David Liu, Attorney, Division, Commission, on August 11, 2004.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-BSE-2004-25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-BSE-2004-25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BSE-2004-25 and should be submitted on or before September 24, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2066 Filed 9-2-04; 8:45 am]

BILLING CODE 8010-01-P

[13] 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4812]

60-Day Notice of Proposed Information Collection: Refugee Biographic Data, OMB Control Number 1405-0102

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Refugee Biographic Data.
- *OMB Control Number:* 1405-0102.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Population, Refugees, and Migration, PRM/A.
- *Form Number:* N/A.
- *Respondents:* Refugee applicants for the U.S. Resettlement Program.
- *Estimated Number of Respondents:* 70,000.
- *Estimated Number of Responses:* 70,000.
- *Average Hours Per Response:* One-half hour.
- *Total Estimated Burden:* 35,000 hours.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to obtain a benefit.

DATES: The Department will accept comments from the public up to 60 days from September 3, 2004.

ADDRESSES: You may submit comments by either of the following methods:

- *E-mail: nelsonab@state.gov.* You must submit information collection title and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD-ROM submissions):* Refugee Processing Center, 1401 Wilson Blvd, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Amy Nelson, Refugee Processing Center, 1401 Wilson Blvd, Arlington, VA 22209, who may be reached on 703-907-7200.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The Refugee Biographic Data Sheet describes a refugee applicant's personal characteristics and is needed to match the refugee with a sponsoring voluntary agency to ensure initial reception and placement in the U.S. under the United States Refugee Program administered by the Bureau for Population, Refugees, and Migration.

Methodology: Biographic information is collected in a face-to-face interview of the applicant overseas. An employee of an Overseas Processing Entity, under contract with PRM, collects the information and enters it into the Worldwide Refugee Admissions Processing System.

Dated: August 27, 2004.

Terry Rusch,

Director, Office of Admissions, Bureau of Population, Refugees and Migration, Department of State.

[FR Doc. 04-20148 Filed 9-2-04; 8:45 am]

BILLING CODE 4710-33-P

DEPARTMENT OF STATE

[Public Notice 4814]

Culturally Significant Objects Imported for Exhibition Determinations: "Asian Games: The Art of Contest"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of

October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Asian Games: The Art of Contest," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Asia Society, New York, NY, from on or about October 13, 2004, to on or about January 16, 2005; Arthur M. Sackler Gallery, Washington, DC, from on or about February 26, 2005, to on or about May 15, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 27, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–20150 Filed 9–2–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4815]

Culturally Significant Objects Imported for Exhibition

Determinations: "Peter Paul Rubens (1577–1640): The Drawings"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Peter Paul Rubens (1577–1640): The Drawings," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum Art, New York, NY, from on or about January 14, 2005, to on or about April 3, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 27, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–20151 Filed 9–2–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4813]

Culturally Significant Objects Imported for Exhibition Determinations: "Spain in the Age of Exploration 1492–1819"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Spain in the Age of Exploration 1492–1819" imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Seattle Art Museum, Seattle, Washington, from on or about October 16, 2004 to on or about January 2, 2005, and at the Norton Museum of Art, West Palm Beach, Florida, from on or about February 2, 2005 to on or about May 2, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr R. Sulzynsky, the Office of the Legal Adviser, Department of State, (telephone: (202) 619–5078). The address is: Department of State, SA–44, and 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 27, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–20149 Filed 9–2–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4780]

Notice of Receipt of Cultural Property Request from the Government of the People's Republic of China

The Government of the People's Republic of China, concerned that its cultural heritage is in jeopardy from pillage, made a request to the Government of the United States under Article 9 of the 1970 UNESCO Convention. The request was received on May 27, 2004, by the United States Department of State. It seeks U.S. import restrictions on Chinese archaeological material from the Paleolithic to the Qing Dynasty including, but not limited to, certain categories of metal implements, weapons, vessels, sculpture, and jewelry; pottery and porcelain vessels, sculpture, and architectural elements; stone implements, weapons, vessels, sculpture, jewelry and architectural elements; painting and calligraphy; textiles; lacquer; bone, ivory and horn wares; and wood and bamboo objects.

Information about the Act and U.S. implementation of the 1970 UNESCO Convention can be found at *http://exchanges.state.gov/culprop*. A public summary of the China Request will be posted on the web site.

Dated: August 26, 2004.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–20146 Filed 9–2–04; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 4782]

Shipping Coordinating Committee

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1 p.m. on Monday, September 20, 2004, in Room 6244 of the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, DC 20590–0001. The primary purpose of the meeting is to prepare for the Ninth Session of the International Maritime Organization (IMO) Sub-Committee on Dangerous Goods, Solid Cargoes and Containers to be held at the IMO Headquarters in London, England from September 27 to October 1, 2004.

The primary matters to be considered include:

—Amendments to the International Maritime Dangerous Goods (IMDG) Code and Supplements including harmonization of the IMDG Code with the United Nations Recommendations on the Transport of Dangerous Goods, and review of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.

—Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code), including evaluation of properties of solid bulk cargoes.

—Cargo securing manual.

—Casualty and incident reports and analysis.

—Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives.

—Guidance on serious structural deficiencies in containers.

—Measures to enhance maritime security.

—Document of compliance required by SOLAS Regulation II–2/19.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G–MSO–3), Room 1210, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: August 24, 2004.

Clay Diamond,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 04–20147 Filed 9–2–04; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice to establish a system of records.

SUMMARY: NHTSA proposes to amend a system of records under the Privacy Act of 1974.

EFFECTIVE DATE: October 13, 2004. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

ADDRESSES: Address all comments concerning this notice to Yvonne L. Coates, Privacy Officer, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–6964 (telephone), (202) 366–7024 (fax), *Yvonne.Coates@ost.dot.gov* (Internet address).

FOR FURTHER INFORMATION CONTACT: Dee Smith, Department of Transportation, NHTSA, Office of the Chief Information Officer, Suite 6100, 400 7th Street, SW., Washington, DC 20590, (202) 366–2622 (telephone), (202) 493–2080 (fax), *Dee.Smith@nhtsa.dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: This amendment establishes two new routine uses to allow NHTSA to: (1) Provide complaint information, including personal identifiers, to vehicle manufacturers during defect investigations; and (2) refer complaint information to appropriate State or Federal agency for actions involving matters of law or regulation beyond the responsibility of the agency or Department, such as the Federal Trade Commission in matters involving warranties.

SYSTEM NUMBER:

DOT/NHTSA 415.

SYSTEM NAME:

Artemis System/Vehicle Owner Complaint Information.

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

U.S. Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA), Office of Defects Investigation (ODI), 400 7th Street, SW., Suite 5326, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Vehicle owners, Vehicle operators, Complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vehicle owner questionnaire forms (electronic and hard copy) and consumer correspondence. Information may contain names, addresses, telephone numbers, vehicle identification numbers, and vehicle complaint information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 30166.

PURPOSE(S):

To ensure that vehicle manufacturers recall and repair or replace defective or noncompliant motor vehicles or items of motor vehicle equipment and to ensure that they do so in an effective manner. To identify alleged problems and trends and to conduct investigations and determine whether recalls are necessary and ensure that recalls are conducted in accordance with agency requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

—To permit ODI to review complaints about defects in motor vehicles and items of motor vehicle equipment in order to identify trends that could result in defect investigations, and ultimately in safety-related recalls.

—To permit ODI to review complaints to identify uncorrected recall performance problems which require investigation into the adequacy of the notification or remedy in accordance with agency regulations.

—To make complaints about recall performance available to applicable manufacturers in order to allow them to rectify owner complaints and problems.

—To provide complaints to the applicable vehicle manufacturer during a defect investigation to enable the manufacturer to identify the specific complaint vehicle and to research the root cause of the alleged problem.

—To refer complaints to the appropriate State or Federal agency for actions involving matters of law or regulation beyond the responsibility of the agency or Department, such as the Federal Trade Commission in matters involving warranties.

—See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in a storage area network (SAN) that is part of the Artemis system. Any images associated with these records are also stored in the SAN. The SAN is partitioned into public and private sections.

RETRIEVABILITY:

Records may be retrieved by any personal identifier associated with the vehicle owner questionnaire or other consumer correspondence.

SAFEGUARDS:

To safeguard against the risk of unauthorized access and disclosure, Artemis users must follow strict security guidelines to gain access to the system. Artemis is also equipped with an intrusion detection system and the entire Artemis database is periodically backed up onto digital storage media and stored offsite in a secure location.

RETENTION AND DISPOSAL:

The information is retained for ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA), Office of Defects Investigation (ODI), 400 7th Street, SW., Suite 5326, Washington, DC 20590.

NOTIFICATION PROCEDURE:

To determine whether the system may contain records relating to you, write to the System Manager.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure" above.

Individuals requesting access must include their full name in the request. Individuals requesting access must also comply with the Department of Transportation's Privacy Act regulations on verification of identity (49 CFR 10.37).

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Information is collected from the general public, State highway offices, insurance companies, and vehicle manufacturers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: August 30, 2004.

Yvonne L. Coates,

Departmental Privacy Officer.

[FR Doc. 04–20169 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice For Waiver Of Aeronautical Land-use Assurance Fort Wayne International Airport, Fort Wayne, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change portions of airport land from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of a 4.0-acre portion of Parcel 6–4 and a 2.6758-acre portion of Parcel 5–19. Presently the land is vacant and used as open land for control of FAR Part 77 surfaces and compatible land use and is not needed for aeronautical use, as shown on the Airport Layout Plan. Parcel 6–4 (80.14 acres) was acquired in 1993 without Federal participation. Parcel 5–19 (22.00 acres) was obtained from the United States of America by Warranty Deed dated June 29, 1949. The release of the 2.6758-acre portion of Parcel 5–19 will require the coordination and approval of the United States of America (Department of Defense). It is the intent of the Fort Wayne—Allen County Airport Authority (FWACAA) to sell the 4.0-acre portion of Parcel 6–4 and the 2.6758-acre portion of Parcel 5–19. There are no impacts to the airport by allowing the FWACAA to dispose of the property. This notice announces that the FAA intends to authorize the disposal of the subject airport property at Fort Wayne International Airport, Fort Wayne, IN. Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before October 4, 2004.

FOR FURTHER INFORMATION CONTACT: Richard Pur, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number 847–294–7527/FAX Number 847–294–7046. Documents reflecting this FAA action may be reviewed at this same location by appointment or at the Fort Wayne—Allen County Airport Authority, Fort Wayne International Airport, Lt. Paul Baer Terminal, Suite 209, Fort Wayne, IN 46809.

SUPPLEMENTARY INFORMATION: Following are the legal descriptions of the property located at Fort Wayne, Allen County, Indiana:

Part of Parcel 5–19

Part of the Southeast Quarter of Section 5, Township 29 North, Range 12 East, together with part of the Northeast Quarter of Section 8, Township 29 North, Range 12 East, in Allen County, Indiana, being also a part of a 3.112 acre road right of way contained in Document Number 200009390, more particularly described as follows, to-wit:

To arrive at the point of beginning, commence on the south line of the Southeast Quarter of said Section 5, being coincident with the centerline of a public road known as the Ferguson Road at a point situated 138.9 feet East of the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 5, said point being 268.6 feet West of the centerline of 2nd Street as established; thence South 0 degrees 49 minutes 15 seconds East and normal to said Ferguson Road centerline (bearings based upon plans by Certified Engineering, Inc. For Indianapolis and Ferguson Road Alignment modification dated Dec. 19, 2002), a distance of 40.00 feet to the point of beginning initially referred to; thence North 89 degrees 10 minutes 45 seconds East, parallel with the South line of said Southeast Quarter along the South 40 foot right of way of said Ferguson Road, a distance of 124.78 feet to the South 50 foot right of way per plans aforesaid; thence Northwesterly on said South 50 foot right of way on a non tangent circular curve to the right having a radius of 655.00 feet, a distance of 253.90 feet to a point of compound curve, the chord of which bears North 69 degrees 41 minutes 28 seconds West, 252.31 feet; thence continuing along said South 50 foot right of way on a circular curve to the right having a

radius of 955.0 feet, a distance of 390.76 feet to the Northeasterly 40 foot right of way as described in said Document Number 200009390; thence along said 40 foot right of way, North 46 degrees 05 minutes 15 seconds West along the line aforesaid, a distance of 288.78 feet to a point of curve; thence Northerly and continuing along said 40 foot right of way along a circular curve to the right having a radius of 260.00 feet, a distance of 351.96 feet to a point of tangent; thence continuing along said 40 foot right of way, North 31 degrees 28 minutes 25 seconds East along said tangent, a distance of 155.80 feet to the West 50 foot right of way per the plans aforesaid; thence Northeasterly along said 50 foot right of way on a non tangent circular curve to the right having a radius of 955.0 feet, a distance of 279.74 feet to the Northwesterly 40 foot right of way of the Indianapolis Road as described in the Document Number aforesaid, the chord of which bears North 14 degrees 47 minutes 42 seconds East, 278.74 feet; thence South 31 degrees 28 minutes 25 seconds West along said 40 foot right of way, a distance of 422.82 feet to a point of curve; thence Southerly and continuing on said 40 foot right of way along a circular curve to the left having a radius of 340.00 feet, a distance of 460.26 feet to a point of tangent; thence continuing along said 40 foot right of way South 46 degrees 05 minutes 15 seconds East, a distance of 580.05 feet to a point of curve; thence continuing along said 40 foot right of way on a circular curve to the left having a radius of 340.00 feet, a distance of 265.45 feet to the point of beginning, containing 2.5964 Acres of land, more or less.

Part of Parcel 6–4

Part of the North half of the Southeast Quarter of Section 6, Township 29 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the said southeast Quarter of Section 6, thence North 00 degrees 42 minutes 18 seconds West (bearing from Dalman Road Project INDOT STP–RS66Q2(4) and used for all subsequent bearings in this description) along the East line of the said Southeast Quarter of Section 6, said line being within the boundaries of the public highway known as Smith Road, a distance of 1326.91 feet to the Southeast corner of the said North half of the Southeast Quarter, thence South 88 degrees 59 minutes 17 seconds West (south 89 degrees 00 minutes 12 seconds West from Recorded Document #970038227 owner County of Allen, State of Indiana) along the South line of the said North half of the Southeast Quarter a distance of 79.49 feet to the point of beginning, said point being on the Westerly right of way line of Smith Road relocated; thence continuing South 88 degrees 59 minutes 17 seconds West along the said South line of the North half of the Southeast Quarter a distance of 661.77 feet; thence North 00 degrees 42 minutes 18 seconds West and parallel with said East line of the Southeast Quarter a distance of 290.00 feet; thence North 88 degrees 59 minutes 17 seconds East and parallel with the said South line of the North half of the Southeast Quarter a distance of 518.05 feet to a point on the said Westerly right of way line of Smith Road relocated; thence South 35 degrees 31 minutes 41 seconds East along said right of way line a distance of 77.30 feet; thence South 27 degrees 48 minutes 13 seconds East along said Westerly right of way line a distance of 187.36 feet; thence South 14 degrees 16 minutes 14 seconds East along the said Westerly right of way line a distance of 60.67 feet to the point of beginning, containing 4.00 acres of land more or less.

Issued in Des Plaines, Illinois on August 24, 2004.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04–20177 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANE–2000–33.87–R3]

Policy for 14 CFR 33.87, Endurance Test

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance; policy statement.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of policy for 14 CFR 33.87, Endurance test.

DATES: The FAA issued policy statement number ANE–2000–33.87–R3 on August 24, 2004.

FOR FURTHER INFORMATION CONTACT: Karen Grant, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: *karen.m.grant@faa.gov;* telephone: (781) 238–7119; fax: (781) 238–7199. The policy statement is available on the Internet at the following address: *http://www.airweb.faa.gov/rgl.* If you do not have access to the Internet, you may request a copy of the policy by contacting the individual listed in this section.

We have filed in the docket all comments we received, as well as a report summarizing each substantive public contact with FAA personnel concerning this policy. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The FAA published a notice in the **Federal Register** on February 25, 2003 (68 FR 8794) to announce the availability of the proposed policy and invite interested parties to comment.

Background

The FAA was asked to consider a 2-minute gas temperature overshoot limit approval within the 5-minute steady state gas temperature limit associated with the takeoff power or thrust rating established under § 33.7, for certain engine operating conditions. This policy provides additional guidance to establish a uniform approach for Aircraft Certification Offices (ACOs) to evaluate and approve up to a 2-minute gas temperature overshoot limit casued by thermal mismatch of engine hardware. This policy does not create any new requirements.

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

Issued in Burlington, Massachusetts, on August 24, 2004.

Robert Guyotte,

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

[FR Doc. 04–20176 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–862X]

Twin State Railroad Company—Abandonment Exemption—in Caledonia and Essex Counties, VT

The Twin State Railroad Company (TSRR) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 20 route miles of rail line between milepost 0.057 in St. Johnsbury and Railroad Engineering Station 5503 at River Road (Town Road) in Lunenburg (Gilman), in Caledonia and

Essex Counties, VT.[1] The line traverses United States Postal Service ZIP Codes 05819, 05824, and 05906.

TSRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 6, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 13, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 23, 2004, 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 TSRR's representative: David H. Anderson, Esq., 288 Littleton Road, Suite 21, Westford, MA 01886.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

TSRR has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 10, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.) Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), TSRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by TSRR's filing of a notice of consummation by September 3, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 27, 2004. By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–20034 Filed 9–2–04; 8:45 am]

BILLING CODE 4915–01–P

[1] The subject line is a portion of TSRR's line that extends between St. Johnsbury, VT, and Whitefield, NH (TSRR line). TSRR notes that related to this matter is a line of railroad that is owned by the State of Vermont and was operated by Lamoille Valley Railroad Company (LVRC) that extends between Swanton, VT, and St. Johnsbury, VT (LVRC line). The TSRR line and the LVRC line connected at St. Johnsbury and comprised a continuous corridor from Swanton to Whitefield. The LVRC line was recently authorized for abandonment. *See Lamoille Valley Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Caledonia, Washington, Orleans, Lamoille, and Franklin Counties, VT,* STB Docket No. AB–444 (Sub-No. 1X) (STB served Jan. 16, 2004).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics; Notice of Meeting

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

This notice announces, pursuant to section 10(A)(2) of the Federal Advisory Committee Act (FACA) (Public Law 72–363; 5 U.S.C. app. 2), a meeting of the BTS Advisory Council on Transportation Statistics (ACTS). The meeting will be held on September 27, 2004, from 10 a.m. to 4 p.m. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington DC, on the 3rd Floor, in Conference Room 3200 of the Nassif Building.

The ACTS, established under section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the BTS are of high quality and are based upon the best available objective information.

The following is a summary of the meeting's agenda: (1) Introductions and Opening Remarks; (2) Program Update; (3) General Discussion of the Research and Innovative Technology Administration (RITA) proposal; (4) Review of BTS response to TRB Special Report 277 (Measuring Personal Travel and Goods Movement); (5) Commodity Flow Survey; (6) National Household Travel Survey; (7) Update on BTS' Indexes; (8) General Discussion; and (9) Public Comments and Closing Remarks.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Phyllis Seville, the Committee Management Officer at (202) 366–9510 prior to September 24, 2004. Individuals attending the meeting must report to the SW Lobby of the Nassif Building for admission to the building. Attendance is open to the public, but limited space is available. With the approval of the Chair, members of the public may present oral statements at the meeting. Non-committee members wishing to present oral statements or obtain information should also contact Ms. Seville.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, BTS, Attention: Robert A. Monniere, Room 3103, 400 Seventh St., SW., Washington, DC 20590 or faxed to (202) 366–3640. BTS requests that written comments be submitted prior to the meeting.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Seville at (202) 366–9510 at least

seven calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Service Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 27th day of August, 2004.

Rick Kowalewski,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 04–20168 Filed 9–2–04; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Multilingual Initiative (MLI) Issue Committee Will be Conducted (Via Teleconference)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Multilingual Initiative (MLI) Issue Committee will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Friday, September 17, 2004, from 1 p.m. to 2 p.m. e.d.t.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

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 Taxpayer Advocacy Panel Multilingual Initiative Issue Committee will be held Friday, September 17, 2004, from 1 p.m. to 2 p.m. e.d.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: various IRS issues.

Dated: August 30, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–20167 Filed 9–2–04; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 69, No. 171
Friday, September 3, 2004

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17163; Airspace Docket No. 04–AGL–10]

Modification of Class D Airspace; Rochester, MN; Modification of Class E Airspace; Rochester, MN

Correction

In rule document 04–19375 beginning on page 51944 in the issue of Tuesday, August 24, 2004 make the following correction:

§71.1 [Corrected]

On page 51944, in the third column, in §71.1, under the heading **AGL MN D Rochester, MN [Revised],** in the first line, "NM" should read, "MN".

[FR Doc. C4–19375 Filed 9–2–04; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
September 3, 2004

Part II

Department of Housing and Urban Development

24 CFR Part 24

Suspension, Debarment, Limited Denial of Participation; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 24

[Docket No. FR–4692–F–04]

RIN 2501–AC81

Suspension, Debarment, Limited Denial of Participation

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On November 26, 2003, HUD published a final rule adopting the Interagency Suspension and Debarment Committee's 2003 enactment of a Nonprocurement Common Rule for Suspensions and Debarments (NCR). HUD also published agency-specific requirements that, along with the NCR, would best serve HUD's programs. In HUD's agency-specific rule, HUD referenced a definition for the term ultimate beneficiaries, but failed to include the definition in the regulation. This rule corrects this omission by adding the definition of ultimate beneficiaries.

DATES: *Effective Date:* October 4, 2004.

FOR FURTHER INFORMATION CONTACT: Dane Narode, Assistant General Counsel, Office of Program Enforcement, Administrative Proceedings Division, Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024–0500; telephone (202) 708–2350 (this is not a toll-free number); e-mail: *Dane_M._Narode@HUD.gov.* Individuals with hearing or speech impairments may access the voice telephone number listed above by calling the Federal Information Relay Service during working hours at 800–877–8339.

SUPPLEMENTARY INFORMATION: On November 26, 2003 (68 FR 66592), HUD published a final rule adopting the Interagency Suspension and Debarment Committee's NCR. HUD also codified agency-specific requirements that, along with the NCR, would best serve HUD's programs. In the table of contents for Subpart I (entitled Definitions) of HUD's agency-specific rule, HUD included a reference for a definition of the term ultimate beneficiaries. The definition was to have been added at § 24.1017. The actual definition, however, was inadvertently omitted from HUD's agency-specific regulation. This final rule corrects this omission by adding the definition of the term, "ultimate beneficiaries."

The definition of the term "ultimate beneficiaries" added by this rule is identical to the definition of this term that was in effect prior to the effective date of the NCR and codified at § 24.105. This definition has been used consistently since the promulgation of the 1988 NCR (53 FR 19182 and 19204).

Findings and Certifications

Justification for Direct Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). In this case, public comment is unnecessary because HUD is adding a definition of the term "ultimate beneficiaries" that was inadvertently omitted from the publication of the NCR. In addition, HUD is making no change to the definition of this term from that in effect prior to the effective date of the NCR. Therefore, there would be no purpose served by accepting public comments on this rule.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and, in so doing, certified that this rule would not have a significant economic impact on a substantial number of small entities. This rule imposes no new obligation of any kind but simply adds a definition for the term "ultimate beneficiaries" without changing what was in effect prior to the effective date of the NCR.

Environmental Impact

In accordance with 24 CFR 50.19(c)(6), this rule sets forth administrative requirements which do not constitute a development decision that affects the physical condition of specific project areas or building sites, and therefore is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related federal laws and authorities.

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 order are met. This final 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 order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule does not impose any Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

List of Subjects in 24 CFR Part 24

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Technical assistance, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, HUD amends 24 CFR part 24 as follows:

PART 24—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

■ 1. The authority citation for part 24 continues to read as follows:

Authority: 41 U.S.C. 701 *et seq.*; 42 U.S.C. 3535(d); Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 2. Section 24.1017 is added to read as follows:

§ 24.1017 Ultimate beneficiaries.

Ultimate beneficiaries of HUD programs include, but are not limited to, subsidized tenants and subsidized mortgagors, such as those assisted under Section 8 Housing Assistance Payment contracts, by Section 236 Rental Assistance, or by Rent Supplement payments.

Dated: August 24, 2004.

Alphonso Jackson,

Secretary.

[FR Doc. 04–20075 Filed 9–2–04; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Friday,
September 3, 2004

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production; Direct Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0084; FRL–7808–2]

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On March 23, 2000, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production under section 112 of the Clean Air Act (CAA), and on September 24, 2002, and on December 30, 2002, we published final amendments to the standards based on two separate settlement agreements. These amendments further clarify regulatory text, correct errors, and improve understanding of the rule requirements as promulgated. We are making the amendments by direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no adverse comments.

DATES: This direct final rule is effective on November 2, 2004 without further notice, unless EPA receives adverse written comment by October 4, 2004 or if a public hearing is requested by September 13, 2004. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OAR–2002–0084. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., U.S. EPA, Minerals and Inorganic Chemicals Group (C–504–05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5446, facsimile number (919) 541–5600, electronic mail address: *wood.joe@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* This action does not affect the applicability of the existing rule as amended on December 30, 2002 (67 FR 79808). Categories and entities potentially regulated by this action include:

Category	NAICS [1]	Examples of regulated entities
Industry	331314	Secondary smelting and alloying of aluminum facilities.
		Secondary aluminum production facility affected sources that are collocated at:
	331312	Primary aluminum production facilities.
	331315	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	Aluminum extruded product manufacturing facilities.
	331319	Other aluminum rolling and drawing facilities.
	331521	Aluminum die casting facilities.
	331524	Aluminum foundry facilities.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1500 of the secondary aluminum production NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's correcting amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules or promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Comments. We are publishing the direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. We consider the changes to be noncontroversial because we are correcting errors in equations to ensure that the proper units are used; correcting typographical and printing errors; making minor changes for clarification and consistency within the rule; and eliminating an erroneous reference to a reporting requirement. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that timely and significant adverse comments are received.

If we receive any relevant adverse comments on the amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 2, 2004. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public

comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading this preamble to this direct final rule.

I. Background

On March 23, 2000 (63 FR 15690), we promulgated the NESHAP for secondary aluminum production (40 CFR part 63, subpart RRR). Those standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standards were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and the Non-Ferrous Founders' Society (*American Foundrymen's Society et al.* v. *U.S. EPA,* Civ. No 00–1208 (D.C. Cir.)). A second petition for judicial review was filed by the Aluminum Association (*The Aluminum Association* v. *U.S. EPA,* No. 00–1211 (D.C. Cir.)). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did thereafter enter into separate settlement discussions with the petitioners in each case.

The Foundrymen's case presented issues concerning the applicability of 40 CFR part 63, subpart RRR, to aluminum die casters and aluminum foundries which were considered during the initial rulemaking development. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to those facilities, but only in those instances where they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the secondary aluminum production NESHAP. During the rulemaking development, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the NESHAP. At promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for those facilities.

After the Foundrymen's case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that initial settlement, EPA agreed that it would stay the current standards for those facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards for those facilities (65 FR 55491, September 14, 2000) and an advance notice of proposed rulemaking (ANPR) announcing new standards for aluminum die casters and foundries (65 FR 55489, September 14, 2000).

During the subsequent process of preparing for information collection, the petitioners concluded that the existing standards were not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based on clarifications of the existing standards. We subsequently reached agreement with the Foundrymen's petitioners on a new settlement which entirely supplanted the initial settlement. Accordingly, we published a notice withdrawing the proposed stay of the existing standards for aluminum die casters and foundries and announcing that we would take no further action on new standards for those facilities (67 FR 41138, June 14, 2002).

In the new settlement, we agreed to propose some changes in the applicability provisions of the existing standards concerning aluminum die casters and foundries. The changes included permitting customer returns without paints or solid coatings to be treated like internal scrap, and permitting facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. The revisions of the applicability criteria were proposed on June 14, 2002 (67 FR 41125) and adopted on December 30, 2002 (67 FR 79808).

In the new Foundrymen's settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, foundries, and extruders until the compliance date for existing sources so that the rulemaking on general applicability issues could be completed first. We took final action concerning that element of the new Foundrymen's settlement in a final rule published on September 24, 2002 (67 FR 59787).

In entirely separate discussions, we also agreed on a settlement of the Aluminum Association case. That settlement required that we propose a number of substantive clarifications and revisions of the standards, which were also adopted in the final rule on December 30, 2002 (67 FR 79808). The Aluminum Association settlement also required that we clarify and simplify the compliance dates for the standards and defer certain early compliance obligations which might otherwise come due during the rulemaking process. We took final action concerning those compliance issues in the final rule published on September 24, 2002 (67 FR 59787).

II. Amendments to the NESHAP

Today's direct final amendments revise the secondary aluminum production NESHAP (40 CFR part 63, subpart RRR) as follows:

- In § 63.1503, we are deleting the definition of "Internal runaround" and replacing it with the definition of "Runaround scrap."
- In § 63.1506, we are including units for emissions of dioxin/furans (D/F) to clarify that the requirements for measurement of feed/charge weight apply to facilities subject to emission limits for D/F, as well as emission limits for other pollutants. The proper units for measurement of D/F emissions for the standards are micrograms per megagram (μg/Mg) or grains per ton (gr/ton). We are also amending the operating requirement for dross-only furnaces in § 63.1506(i)(3) to be consistent with the definition for this type of furnace in § 63.1503. The revised requirement states that the owner or

operator must operate each furnace using dross and salt flux as the sole feedstock.

• In Equation 4 of § 63.1510, we are amending the definition of "T_i" (the total amount of feed or aluminum produced for the emission unit for the 24-hour period) in paragraph (t)(4) to state the proper units. Because "ER_i" (the measured emission rate for the unit) can be either pounds per ton (lb/ton) or μg/Mg, the definition of "T_i" should be in units of tons or Mg instead of only tons.

• In § 63.1512, we are amending paragraph (g) to state that the testing for dross-only furnaces is to be performed while the unit processes only dross and salt flux. This change will make the testing requirement consistent with the definition of "dross-only furnace."

• In § 63.1513, we are amending Equation 7 to apply only to particulate matter (PM) and hydrogen chloride (HCl) emissions and adding a separate equation (7A) for computing D/F emissions in the appropriate measurement units for the standards (μg/Mg or gr/ton). This change will avoid confusion that may result from the differences in measurement units for D/F and PM or HCl.

• In § 63.1516, we are amending the requirements for the semiannual excess emissions/summary report such that the owner or operator must submit semiannual reports according to the requirements in § 63.10(e)(3), but the reports are due within 60 days after the end of each 6-month period instead of within 30 days after the calendar half as required by § 63.10(e)(3)(v). When no deviations of parameters have occurred, the owner or operator must submit a report stating that no excess emissions occurred during the reporting period. We are also amending the certification requirements for dross-only furnaces in § 63.1516(b)(2)(ii) to state that only dross and salt flux were used as the charge material during the reporting period. This change will make the certification statement consistent with the definition of "dross-only furnace."

• In table 2 to subpart RRR, we are correcting a typographical error and revising the measurement units cited for the flux injection rate. The revised units for the flux injection rate are kilograms per megagram (kg/Mg) or (lb/ton) rather than pound per hour (lb/hr).

The direct final amendments correct a typographical error in table 3 to subpart RRR, revise the table of contents to correct typographical and printing errors, and also revise appendix A to subpart RRR (General Provisions Applicability to Subpart RRR) to add a note in the comment column.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the direct final amendments are not a "significant regulatory action" under the terms of Executive Order 12866 and are therefore not subject to OMB review.

B. Paperwork Reduction Act

The OMB has previously approved the information collection requirements in the existing rule (subpart RRR) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2060–0433. The direct final amendments have no impact on the existing information collection burden estimates. Consequently, the ICR has not been revised.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in conjunction with the direct final amendments. The EPA has also determined that the amendments will not have a significant economic impact on a substantial number of small entities and do not pose any requirements or costs on any firm, large or small. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of today's direct final amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's direct final amendments on small entities, the EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This action contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments. The EPA has determined that the direct final amendments do not contain a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. No costs are attributable to the amendments. In addition, the amendments do not significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to the direct final amendments.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

The direct final amendments do not have federalism implications. They do 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. None of the affected plants are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to the direct final amendments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes."

The direct final amendments do not have tribal implications. They do not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. No tribal governments own plants subject to the existing rule or to the direct final amendments. Thus, Executive Order 13175 does not apply to the direct final amendments.

G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The direct final amendments are not subject to Executive Order 13045 because the existing rule is based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The direct final amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The EPA's response to the NTTAA requirements are discussed in the preamble to the final rule (65 FR 15690, March 23, 2000). The direct final amendments do not change the required methods or procedures.

J. Congressional Review Act

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. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the correcting amendments in the **Federal Register**. The direct final amendments are not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: August 25, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart RRR—[Amended]

§ 63.1503 [Amended]

■ 2. Section 63.1503 is amended by removing the definition for the term, "Internal runaround."

■ 3. Section 63.1506 is amended by revising paragraphs (d) and (i)(3) to read as follows:

§ 63.1506 Operating requirements.

* * * * *

(d) *Feed/charge weight.* The owner or operator of each affected source or emission unit subject to an emission limit in kg/Mg (lb/ton) or µg/Mg (gr/ton) of feed/charge must:

* * * * *

(i) * * *

(3) Operate each furnace using dross and salt flux as the sole feedstock.

* * * * *

■ 4. Section 63.1510 is amended by revising the definition of "T_i" for Equation 4 in paragraph (t)(4) to read as follows:

§ 63.1510 Monitoring requirements.

* * * * *

(t) * * *

(4) * * *

Where:

* * * * *

T_i = The total amount of feed, or aluminum produced, for emission unit i for the 24-hour period (tons or Mg);

* * * * *

■ 5. Section 63.1512 is amended by revising paragraph (g) to read as follows:

§ 63.1512 Performance test/compliance demonstration requirements and procedures.

* * * * *

(g) *Dross-only furnace.* The owner or operator must conduct a performance test to measure emissions of PM from each dross-only furnace at the outlet of each control device while the unit processes only dross and salt flux as the sole feedstock.

* * * * *

■ 6. Section 63.1513 is amended by revising paragraph (b) to read as follows:

§ 63.1513 Equations for determining compliance.

* * * * *

(b) *PM, HCl and D/F emission limits.* (1) Use Equation 7 of this section to determine compliance with an emission limit for PM or HCl:

$$E = \frac{C \times Q \times K_1}{P} \qquad \text{(Eq. 7)}$$

Where:

E = Emission rate of PM or HCl, kg/Mg (lb/ton) of feed;

C = Concentration of PM or HCl, g/dscm (gr/dscf);

Q = Volumetric flow rate of exhaust gases, dscm/hr (dscf/hr);

K_1 = Conversion factor, 1 kg/1,000 g (1 lb/7,000 gr); and

P = Production rate, Mg/hr (ton/hr).

(2) Use Equation 7A of this section to determine compliance with an emission limit for D/F:

$$E = \frac{C \times Q}{P} \qquad \text{(Eq. 7A)}$$

Where:

E = Emission rate of D/F, µg/Mg (gr/ton) of feed;

C = Concentration of D/F, µg/dscm (gr/dscf);

Q = Volumetric flow rate of exhaust gases, dscm/hr (dscf/hr); and

P = Production rate, Mg/hr (ton/hr).

* * * * *

■ 7. Section 63.1516 is amended by revising the introductory text of paragraph (b) and paragraph (b)(2)(ii) to read as follows:

§ 63.1516 Reports.

* * * * *

(b) *Excess emissions/summary report.* The owner or operator must submit semiannual reports according to the requirements in § 63.10(e)(3). Except, the owner or operator must submit the semiannual reports within 60 days after the end of each 6-month period instead of within 30 days after the calendar half as specified in § 63.10(e)(3)(v). When no deviations of parameters have occurred, the owner or operator must submit a report stating that no excess emissions occurred during the reporting period.

* * * * *

(2) * * *

(ii) For each dross-only furnace: "Only dross and salt flux were used as the charge materials in any dross-only furnace during this reporting period."

* * * * *

■ 8. Table 2 to Subpart RRR of Part 63 is amended by revising the following "Group 1 furnace" entries to read as follows:

TABLE 2 TO SUBPART RRR OF PART 63.—SUMMARY OF OPERATING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/process	Operating requirements
*	*	*
Group 1 furnace with lime-injected fabric filter (including those that are part of a secondary of aluminum processing unit)..	Bag leak detector or	Initiate corrective action within 1-hr of alarm; operate such that alarm does not sound more than 5% of operating time in 6-month period; complete corrective action in accordance with the OM&M plan.[b]
	COM	Initiate corrective action within 1-hr of a 6-minute average opacity reading of 5% or more; complete corrective action in accordance with the OM&M plan.[b]
	Fabric filter inlet temperature	Maintain average fabric filter inlet temperature for each 3-hour period at or below average temperature during the performance test +14°C (+25° F).
	Reactive flux injection rate	Maintain reactive flux injection rate (kg/Mg) (lb/ton) at or below rate used during the performance test for each furnace cycle.

TABLE 2 TO SUBPART RRR OF PART 63.—SUMMARY OF OPERATING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS—Continued

Affected source/emission unit	Monitor type/operation/process	Operating requirements
	Lime injection rate	Maintain free-flowing lime in the feed hopper or silo at all times for continuous injection systems; maintain feeder setting at level established at performance test for continuous injection systems.
	Maintain molten aluminum level	Operate sidewell furnaces such that the level of molten metal is above the top of the passage between sidewell and hearth during reactive flux injection, unless the hearth is also controlled.
	Fluxing in sidewell furnace hearth	Add reactive flux only to the sidewell of the furnace unless the hearth is also controlled.
Group 1 furnace without add-on controls (including those that are part of a secondary aluminum processing unit).	Reactive flux injection rate	Maintain reactive flux injection rate (kg/Mg) (lb/ton) at or below rate used during the performance test for each operating cycle or time period used in the performance test.
	Site-specific monitoring plan[c]	Operate furnace within the range of charge materials, contaminant levels, and parameter values established in the site-specific monitoring plan.
	Feed material (melting/holding furnace)	Use only clean charge.
* * * * * * *		

[a] * * *
[b] OM&M plan—Operation, maintenance, and monitoring plan.
[c] Site-specific monitoring plan. Owner/operators of group 1 furnaces without control devices must include a section in their OM&M plan that documents work practice and pollution prevention measures, including procedures for scrap inspection, by which compliance is achieved with emission limits and process or feed parameter-based operating requirements. This plan and the testing to demonstrate adequacy of the monitoring plan must be developed in coordination with and approved by the permitting authority.

■ 9. Table 3 to Subpart RRR of Part 63 is amended by revising the "Scrap dryer" entry to read as follows:

TABLE 3.—TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/process	Monitoring requirements.
* * * * * * *		
Scrap dryer/delacquering kiln/decoating kiln with afterburner and lime-injected fabric filter.	Afterburner operating temperature.	Continuous measurement device to meet specifications in §63.1510(g)(1); record temperature for each 15-minute block; determine and record 3-hr block averages.
	Afterburner operation	Annual inspection of afterburner internal parts; complete repairs in accordance with the OM&M plan.
	Bag leak detector or	Install and operate in accordance with "Fabric Filter Bag Leak Detection Guidance[c]; record voltage output from bag leak detector.
	COM	Design and Install in accordance with PS–1; collect data in accordance with subpart A of 40 CFR part 63; determine and record 6-minute block averages.
	Lime injection rate	For continuous injection systems, inspect each feed hooper or silo every 8 hours to verify that lime is free flowing; record results of each inspection. If blockage occurs, inspect every 4 hours for 3 days; return to 8-hour inspections if corrective action results in no further blockage during 3-day period, record feeder setting daily.
	Fabric filter inlet temperature.	Continous measurement device to meet specifications in §63.1510(h)(2); record temperatures in 15-minute block averages; determine and record 3-hr block averages.
* * * * * * *		

[a] * * *
[b] OM&M plan—Operation, maintenance, and monitoring plan.

[c] Site-specific monitoring plan. Owner/operators of group 1 furnaces without control devices must include a section in their OM&M plan that documents work practice and pollution prevention measures, including procedures for scrap inspection, by which compliance is achieved with emission limits and process or feed parameter-based operating requirements. This plan and the testing to demonstrate adequacy of the monitoring plan must be developed in coordination with and approved by the permitting authority.

■ 10. Appendix A to Subpart RRR of Part 63 is amended by revising the entry for § 63.10(e)(3) to read as follows:

Appendix A to Subpart RRR—General Provisions Applicability to Subpart RRR

Citation	Requirement	Applies to RRR	Comment
* * * * * * *			
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	Reporting deadline given in § 63.1516.
* * * * * * *			

[FR Doc. 04–20128 Filed 9–2–04; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0084; FRL–7808–1]

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On March 23, 2000, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production under section 112 of the Clean Air Act (CAA), and on September 24, 2002, and on December 30, 2002, we published final amendments to the standards based on two separate settlement agreements. These amendments further clarify regulatory text, correct errors, and improve understanding of the rule requirements as promulgated. We are making the amendments by direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no adverse comments.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial and anticipate no adverse comments. We have explained our reasons for the amendments in the preamble to the direct final rule. If we receive no significant adverse comments, we will take no further action on the proposed amendments. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule in the Rules and Regulations section of today's **Federal Register** is withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final rule based on the proposed amendments. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received on or before October 4, 2004, unless a hearing is requested by September 13, 2004. If a timely hearing is requested, written comments must be received by October 18, 2004. If a hearing is held, it will take place on September 20, 2004, beginning at 10 a.m.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2002–0084, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Agency Web site: http://www.epa.gov/edocket*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *A-and-R-Docket@epa.gov*.
- *Fax:* (202) 566–1741.
- *Mail:* Air Docket (in duplicate if possible), Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460,
- *Hand Delivery:* Air Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Mail code: 6102T, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OAR–2002–0084. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, Minerals and Inorganic Chemicals Group, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5446, fax number (919) 541–5600, and electronic mail: *wood.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

Does this action apply to me? This action does not affect the applicability of the existing rule as amended on December 30, 2002 (67 FR 79808). Categories and entities potentially regulated by this action include:

Category	NAICS [1]	Examples of regulated entities
Industry	331314	Secondary smelting and alloying of aluminum facilities.
		Secondary aluminum production facility affected sources that are collocated at:
	331312	Primary aluminum production facilities.
	331315	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	Aluminum extruded product manufacturing facilities.
	331319	Other aluminum rolling and drawing facilities.
	331521	Aluminum die casting facilities.
	331524	Aluminum foundry facilities.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1500 of the secondary aluminum production NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

For further information, please see the information provided in the direct final rule that is located in the "Rules and Regulations" section of this **Federal Register** publication.

What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Administrative Requirements

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

. The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, under the Administrative Procedure Act or another statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business that is a business with less than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The EPA has also determined that the amendments will not have a significant economic impact on a substantial number of small entities. The direct final amendments do not pose any requirements or costs on any firm, large or small. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

For information regarding other administrative requirements for this action, please see the direct final/final rule action notice that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 25, 2004.

Michael O. Leavitt,

Administrator.

[FR Doc. 04–20129 Filed 9–2–04; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,
September 3, 2004

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004–05 Early Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT53

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004–05 Early Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special early season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 1, 2004.

ADDRESSES: You may inspect comments received on the proposed special hunting regulations and tribal proposals during normal business hours in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1967.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the August 17, 2004, **Federal Register** (69 FR 51036), we proposed special migratory bird hunting regulations for the 2004–05 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the March 22, 2004, **Federal Register** (69 FR 13440), we requested that tribes desiring special hunting regulations in the 2004–05 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, *etc.*);

(c) Steps that would be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Late-season hunting will be addressed in late-September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Population Status and Harvest

The following paragraphs provide a brief summary of information on the status and harvest of waterfowl excerpted from various reports. For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **ADDRESSES** or from our Web site at *http://migratorybirds.fws.gov.*

Status of Ducks

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate the conditions of the habitats. These surveys are conducted using fixed-wing aircraft and encompass principal breeding areas of North America, and cover over 2.0 million square miles. The Traditional survey area comprises Alaska, Canada, and the northcentral United States, and includes approximately 1.3 million square miles. The Eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

Breeding Ground Conditions

Most of the U.S. and Canadian prairies were much drier in May 2004 than in May 2003, which was reflected in the pond counts for this region. For the U.S. Prairies and Canadian Prairie and Parkland combined, the May pond estimate was 3.9 ± 0.2 million, which is 24% lower than last year's ($P < 0.001$) and 19% below the long-term average ($P < 0.001$). Pond numbers in both Canada (2.5 ± 0.1 million) and the United States (1.4 ± 0.1 million) were below 2003 estimates (-29% in Canada and -16% in the United States; $P \leq 0.033$). The number of ponds in Canada was 25% below the long-term average ($P < 0.001$).

Unfortunately, last year's good water conditions on the short-grass prairies of southern Alberta and Saskatchewan did not continue in 2004, and habitat in these areas went from good last year to fair or poor this year. Habitat in southern Manitoba ranged from poor in the east to good in the west, conditions similar to last year's. In the Dakotas, a slow drying trend seen over the past few years continued, and much of eastern South Dakota was in poor condition. Conditions in the Dakotas improved to the north, and eastern Montana was a mosaic of poor to good conditions, with overall production potential rated only fair. Although prairie areas received considerable moisture from snow,

including a late-spring snowstorm in southern regions, the snowmelt was absorbed by the parched ground. Furthermore, snow and cold during May probably adversely affected early nesters and young broods. Many prairie areas received abundant water after May surveys, but it likely did not alleviate dry conditions, because this precipitation also soaked into the ground. Therefore, overall expected production from the prairies was only poor to fair this year.

Spring thaw was exceptionally late this year in the Northwest Territories, northern Alberta, northern Saskatchewan, and northern Manitoba. This meant that birds that over-flew the prairies due to poor conditions encountered winter-like conditions in the bush, and nesting may have been curtailed. This is especially true for early-nesting species like mallards and northern pintails; late nesters should have better success. Overall, the bush regions were only fair to marginally good for production due to this late thaw. However, Alaska birds should produce well due to excellent habitat conditions there. Areas south of the Brooks Range experienced a widespread, record-setting early spring breakup, and flooding of nesting areas was minimal.

Breeding habitat conditions were generally good to excellent in the eastern United States and Canada. Although spring was late in most areas, nesting was not significantly affected because of abundant spring rain and mild temperatures. Production in the east was normal in Ontario and the Maritimes, and slightly below normal in Quebec.

Breeding Population Status

In the traditional survey area, the total duck population estimate (excluding scoters, eiders, long-tailed ducks, mergansers, and wood ducks) was 32.2 ± 0.6 million birds, 11% below ($P < 0.001$) last year's estimate of 36.2 ± 0.7 million birds, and 3% below the long-term (1955–2003) average ($P = 0.053$). Mallard abundance was 7.4 ± 0.3 million birds, which was similar to last year's estimate of 7.9 ± 0.3 million birds ($P = 0.177$) and the long-term average ($P = 0.762$). Blue-winged teal abundance was 4.1 ± 0.2 million birds. This value was 26% below last year's estimate of 5.5 ± 0.3 million birds ($P < 0.001$) and 10% below the long-term average ($P = 0.073$). Of the other duck species, only estimates of northern shovelers (2.8 ± 0.2 million) and American wigeon (2.0 ± 0.1 million) were significantly different from 2003 estimates ($P < 0.003$), and both were 22% below 2003 estimates. Compared to the long-term averages, gadwall (2.6 ± 0.2 million; +56%), green-winged teal (2.5 ± 0.1 million; +33%) and shovelers (+32%) were above their 1955–2003 averages ($P < 0.001$), as they were in 2003. In 2004, northern pintails (2.2 ± 0.2 million; −48%) and scaup (3.8 ± 0.2 million; −27%) remained well below their long-term averages ($P < 0.001$). Wigeon also were below their long-term average in 2004 (−25%; $P < 0.001$). Estimates of redheads and canvasbacks were unchanged from their previous year and long-term averages ($P \geq 0.396$).

The eastern survey area comprises strata 51–56 and 62–69. The 2004 total-duck estimate for this area was 3.9 ± 0.3 million birds. This estimate was similar to that of last year and the 1996–2003 average ($P \geq 0.102$). Estimates for most individual species were similar to last year and to 1996–2003 averages. Only numbers of ring-necked ducks were significantly different from 2003 estimates, increasing by 67% to 0.7 ± 0.2 million birds ($P = 0.095$). Wigeon (0.1 ± 0.1 million; −61%) and goldeneye (0.4 ± 0.1 million; −42%) were below their 1996–2003 averages ($P \leq 0.052$). All other species were similar to 2003 estimates and 1996–2003 averages.

Breeding Activity and Production

Weather and habitat conditions during the summer months can influence waterfowl production. Good wetland conditions increase renesting effort and brood survival. In general, 2004 habitat conditions stabilized or improved over most of the traditional survey area between May and July. This year, we had no traditional July Production Survey to verify the early predictions of our biologists in the field, due to severe budget constraints within the migratory bird program. However, experienced crew leaders in Montana and the western Dakotas, the eastern Dakotas, southern Alberta, and southern Saskatchewan returned to their May survey areas in early July to qualitatively assess habitat changes between May and July. Biologists from other survey areas communicated with local biologists to get their impressions of 2004 waterfowl production and monitored weather conditions. Habitat in some portions of the prairies, particularly in the Dakotas and Alberta, improved between May and July because of abundant summer rain. However, there were few birds in these areas because many had left the prairies in the early spring when habitat conditions were dry. Therefore, the production potential from most prairie areas ranged from poor to good and was generally worse than in 2003. Pilot biologists from other survey areas communicated with local biologists to get their impressions of 2004 waterfowl production and monitored weather conditions. Habitat conditions in the northern and eastern areas are more stable because of the deeper, more permanent water bodies there. Because temperatures were so cold in May, the outlook for production from these areas remains fair in the northern Prairie Provinces, and good to excellent in the eastern survey area.

Fall Flight Estimate

The mid-continent mallard population is composed of mallards from the traditional survey area, Michigan, Minnesota, and Wisconsin, and is 8.4 ± 0.3 million. This is similar to the 2003 estimate of 8.8 ± 0.4 million ($P = 0.289$). The 2004 mid-continent mallard fall-flight index is 9.4 ± 0.1 million, statistically similar to the 2003 estimate of 10.3 ± 0.1 million birds ($P = 0.467$). These indices were based on revised mid-continent mallard population models and, therefore, differ from those previously published.

Status of Geese and Swans

We provide information on the population status and productivity of North American Canada geese (*Branta canadensis*), brant (*B. bernicla*), snow geese (*Chen caerulescens*), Ross's geese (*C. rossii*), emperor geese (*C. canagica*), white-fronted geese (*Anser albifrons*) and tundra swans (*Cygnus columbianus*). The timing of spring snowmelt in northern goose and swan nesting areas varied in 2004, from very early in western Alaska to very late in areas near Hudson Bay and in northern Quebec. Reproductive success of geese and swans in areas that experienced near-average spring phenology might have been reduced by persistent snow cover and harsh conditions that encompassed a large expanse of migration and staging habitat. Of the 26 populations for which current primary population indices were available, 7 populations (Atlantic Population, Aleutian, and 3 temperate-nesting populations of Canada geese; Pacific Population white-fronted geese; and Eastern Population tundra swans) displayed significant positive trends, and only Short Grass Prairie Population Canada geese displayed a significant negative trend over the most recent 10-year period. The forecast for production of geese and swans in North America in 2004 is improved from 2003 in the Pacific Flyway, but similar to, or lower than, 2003 for the remainder of North America.

Waterfowl Harvest and Hunter Activity

During the 2003–04 hunting season, duck harvest was about the same as the previous year, but goose harvest increased. U.S. hunters harvested 13,402,000 ducks in 2003 compared to 12,740,000 in 2002, and they harvested 3,828,000 geese, an increase of 13% over the 3,378,600 geese taken in 2002. The five most commonly harvested duck species were mallard (5,019,200), green-winged teal (1,516,000), gadwall (1,473,800), wood duck (1,234,500), and blue-winged/cinnamon teal (977,600).

Comments and Issues Concerning Tribal Proposals

For the 2004–05 migratory bird hunting season, we proposed regulations for 30 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 22 tribes have proposals with early seasons. The comment period for the proposed rule, published on August 16, 2004, closed on August 26, 2004. No comments were received on the proposals. Because of the necessary brief comment period, we will respond to any comments received on the proposed rule and/or these regulations in the September late-season final rule.

Further, we have not received any comments regarding the notice of intent published on March 22, 2004, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds" (FSES 88–14), filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582) and our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under **ADDRESSES.** In addition, an August 1985 Environmental Assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available under **ADDRESSES.**

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *" Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES.**

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–1996, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a midpoint estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1) and this rule will be effective immediately.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, it is not a significant energy action and no Statement of Energy Effects is required.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane

Harvest Questionnaire and assigned control number 1018–0023 (expires 10/31/2004). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not "significantly or uniquely" affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the MBTA, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the MBTA. Annually, we prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. We develop the frameworks in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will ultimately make season selections, thereby having an influence on their own regulations. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Further, any State or Tribe may be more restrictive than the Federal frameworks at any time. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the MBTA. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the March 22, 2004, request for proposals and the August 8, 2004, proposed rule, we have consulted with all the tribes affected by this rule.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions. We, therefore, find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will take effect immediately upon publication.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), we prescribe final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub L. 106–108.

(**Note:** The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature).

■ 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 2004; then open November 12, 2004, close December 26, 2004.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required and must be in possession of all persons 14 years and older before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Hunters)

Tribal Members Only

Ducks (including mergansers)

Season Dates: Open September 1, 2004, close March 9, 2005.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

General Conditions: Tribal and Nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

Sandhill Cranes

Season Dates: Open September 11, close October 17, 2004.

Daily Bag Limit: Three sandhill cranes.

Permits: Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

Doves

Season Dates: Open September 1, close October 30, 2004.

Daily Bag Limit: 15 mourning doves.

General Conditions: The possession limit is twice the daily bag limit. Tribal and nontribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(d) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

All seasons in Minnesota, 1854 and 1837 Treaty Zones:

Ducks and Mergansers

Season Dates: Open September 18, 2004, close December 1, 2004.

Daily Bag Limit for Ducks: 18 ducks, including no more than 12 mallards (only 6 of which may be hens), 3 black ducks, 9 scaup, 6 wood ducks; 6 redheads, 3 pintails and 3 canvasbacks.

Daily Bag Limit for Mergansers: 15 mergansers, including no more than 3 hooded mergansers.

Geese (All species)

Season Dates: Open September 1, close December 1, 2004.

Daily Bag Limit: 12 geese.

Coots and Common Moorhens (Gallinule)

Season Dates: Open September 18, close December 1, 2004.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Open September 1, close December 1, 2004.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate. There is no possession limit.

Common Snipe and Woodcock

Season Dates: Open September 1, close December 1, 2004.

Daily Bag Limit: Eight snipe and three woodcock.

General Conditions:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(e) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

All seasons in Michigan, 1836 Treaty Zone:

Ducks

Season Dates: Open September 15, 2004, close January 15, 2005.

Daily Bag Limit: 12 ducks, which may include no more than 2 pintail, 2 canvasback, 3 black ducks, 1 hooded merganser, 3 wood ducks, 3 redheads, and 6 mallards (only 3 of which may be hens).

Canada Geese

Season Dates: Open September 1, close November 30, 2004, and open January 1, 2005, close February 8, 2005.

Daily Bag Limit: Five geese.

Other Geese (white-fronted geese, snow geese, and brant)

Season Dates: Open September 20, close November 30, 2004.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1, close November 14, 2004.

Daily Bag Limit: Ten rails, ten snipe, and five woodcock.

Mourning Doves

Season Dates: Open September 1, close November 14, 2004.

Daily Bag Limit: Ten mourning doves.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(f) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Ducks

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

Mergansers: All Ceded Areas

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: Five mergansers.

Geese: All Ceded Areas

Season Dates: Begin September 1 and end December 1, 2004. In addition, any portion of the ceded territory which is open to State-licensed hunters for goose hunting after December 1 shall also be open concurrently for tribal members.

Daily Bag Limit: 10 geese in the aggregate.

Other Migratory Birds: All Ceded Areas except where noted below.

A. Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

Possession Limit: 25.

C. Common Snipe

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: Eight common snipe.

D. Woodcock

Season Dates: Begin September 7 and end December 1, 2004.

Daily Bag Limit: Five woodcock.

E. Mourning Doves: 1837 and 1842 Ceded Territories

Season Dates: Begin September 1 and end October 30, 2004.

Daily Bag Limit: Fifteen mourning doves.

General Conditions:

A. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt)* and *Mille Lacs Band* v. *State of Minnesota* cases. The respective Chapters 10 of these model codes regulate ceded territory migratory bird hunting. They parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations adopted in response to this proposal.

C. Particular regulations of note include:

1. Nontoxic shot will be required for all off-reservation waterfowl hunting by tribal members.

2. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession and custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

4. The baiting restrictions can be obtained at the Tribal office in the model ceded territory conservation codes. These codes will be amended to include language that parallels that in place for nontribal members as published in 64 FR 29804, June 3, 1999.

5. The shell limit restrictions of the model ceded territory conservation codes will be removed.

D. Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(g) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

Nontribal Hunters on Reservation

Geese

Season Dates: Open September 1, 2004, close September 15, 2004, for the early-season, and open October 1, 2004, close January 31, 2005, for the late-season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 and 10, respectively, for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant and is in addition to dark goose limits for the late-season. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 1, 2004, close January 31, 2005.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 4 scaup, and 2 redheads. The seasons on canvasbacks and pintail are closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2004, close January 31, 2005.

Daily Bag Limit: 3 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(h) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)

Ducks

Season Dates: Open September 15, close December 31, 2004.

Daily Bag Limits: 10 birds.

Geese

Season Dates: Open September 1, close December 31, 2004.

Daily Bag Limits: 10 geese.

General: Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

(i) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

Canada Geese

Season Dates: Open September 1, close November 30, 2004, and open January 1, close February 8, 2005.

Daily Bag and Possession Limits: Five Canada geese and possession limit is twice the daily bag limit.

White-fronted Geese, Snow Geese, Ross Geese, and Brant

Season Dates: Open September 20, close November 30, 2004.

Daily Bag and Possession Limits: Five birds and the possession limit is twice the daily bag limit.

Mourning Doves, Rails, Snipe, and Woodcock

Season Dates: Open September 1, close November 14, 2004.

Daily Bag and Possession Limits: 10 doves, 10 rails, 10 snipe, and 5 woodcock. The possession limit is twice the daily bag limit.

General:

A. All tribal members are required to obtain a valid tribal resource card and 2004–05 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

(3) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(j) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only)

Ducks

Season Dates: Open September 15, 2004, close January 20, 2005.

Daily Bag Limits: 12 ducks, including no more than 6 mallards (only 3 of which may be hens), 3 black ducks, 3 redheads, 3 wood ducks, 2 pintail, 1 hooded merganser, and 2 canvasback.

Canada Geese

Season Dates: Open September 1, 2004, close February 8, 2005.

Daily Bag Limit: Five geese.

White-fronted Geese, Snow Geese, and Brant

Season Dates: Open September 1, close November 30, 2004.

Daily Bag Limit: 10 of each species.

Sora Rails, Snipe, and Mourning Doves

Season Dates: Open September 1, close November 14, 2004.

Daily Bag Limit: 10 of each species.

Woodcock

Season Dates: Open September 1, close November 14, 2004.

Daily Bag Limit: Five woodcock.

General: Possession limits are twice the daily bag limits.

(k) Lower Elwha Klallam Tribe, Port Angeles, Washington (Tribal Members Only)

Ducks and Mergansers

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 1, 2004, close February 15, 2005.

Daily Bag and Possession Limits: Two brant. Possession limit is twice the daily bag limit.

Coots

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag Limits: 25 coots.

Mourning Doves

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag and Possession Limits: 10 and 20 snipe, respectively.

Band-tailed Pigeon

Season Dates: Open September 15, 2004, close December 30, 2004.

Daily Bag and Possession Limits: 2 and 4, respectively.

General Conditions: All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the Tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office.

(l) Makah Indian Tribe, Neah Bay, Washington (Tribal Members)

Band-tailed Pigeons

Season Dates: Open September 1, 2004, close October 31, 2004.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 25, 2004, close January 19, 2005.

Daily Bag Limit: Seven ducks including no more than one redhead, one pintail, and one canvasback. The seasons on wood duck and harlequin are closed.

Geese

Season Dates: Open September 25, 2004, close January 19, 2005.

Daily Bag Limit: Four. The seasons on Aleutian and dusky Canada geese are closed.

General

All other Federal regulations contained in 50 CFR part 20 would apply. The following restrictions are also proposed by the Tribe: (1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area; (2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl; (3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation; (4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited; (5) Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited; (6) The use of dogs is permitted to hunt waterfowl.

(m) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)

Band-tailed Pigeons

Season Dates: Open September 1, close September 30, 2004.
Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 2004.
Daily Bag and Possession Limits: 10 and 20 doves, respectively.
General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(n) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Geese

Season Dates: Open September 1, close November 19, 2004, and open November 29, close December 31, 2004.
Daily Bag and Possession Limits: Three and Six Canada geese, respectively. Hunters will be issued three tribal tags for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A season quota of 150 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 11, close November 14, 2004.
Daily Bag and Possession Limits: 5 and 10 woodcock, respectively.

Dove

Season Dates: Open September 1, 2004, close November 14, 2004.
Daily Bag and Possession Limits: 10 and 20, respectively.
General Conditions: Tribal member shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits, that differ from tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: tribal members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(o) Skokomish Tribe, Shelton, Washington (Tribal Members Only)

Ducks and Mergansers

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Coots

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag Limits: 25 coots.

Mourning Doves

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeon

Season Dates: Open September 16, 2004, close December 31, 2004.
Daily Bag and Possession Limits: 2 and 4, respectively.
General Conditions: All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective Tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office.

(p) Sokaogon Chippewa Community, Crandon, Wisconsin (Tribal Members Only)

Ducks (including Mergansers)

Season Dates: Open September 1, 2004, close December 1, 2004.
Daily Bag Limit: 50 ducks, including no more than 20 mallards (10 of which may be hens), 10 black ducks, 10 redheads, 10 pintail, and 8 canvasback.

Coots and Gallinules

Season Dates: Same as Ducks.
Daily Bag Limit: 50, singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Same as ducks.
Daily Bag Limit: 25 singly or in the aggregate.

Geese

Season Dates: Open September 1, 2004, close December 1, 2004.
Daily Bag Limit: 25 in the aggregate.

Woodcock

Season Dates: Open September 1, 2004, close December 1, 2004.
Daily Bag Limit: Seven.
Shooting hours are one-half hour before sunrise until three-quarters of an hour after sunset. Possession limits for all species are twice the daily bag limit, except on opening day of the season when the possession limit equals the daily bag limit.

(q) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

Ducks

Season Dates: Open September 1, 2004, close January 15, 2005.
Daily Bag and Possession Limits: Five ducks, which may include only one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2004, close January 15, 2005.
Daily Bag and Possession Limits: Four geese, and may include no more than two snow geese. The season on Aleutian and cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 1, close December 31, 2005.
Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 1, 2004, close January 15, 2005.
Daily Bag Limits: 25 coots.

Snipe

Season Dates: Open September 15, 2004, and close January 15, 2005.
Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 1, close December 31, 2004.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

General Conditions: All tribal hunters must obtain a Tribal Hunting Tag and Permit from the Tribe's Natural Resources Department and must have the permit, along with the member's treaty enrollment card, on his or her person while hunting. Shooting hours are one-half hour before sunrise to one-half hour after sunset, and steel shot is required for all migratory bird hunting. Other special regulations are available at the tribal office in Shelton, Washington.

(r) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Nontribal Hunters)

Tribal Members

Ducks (Including Coots and Mergansers)

Season Dates: Open September 15, 2004, and close February 29, 2005.

Daily Bag and Possession Limits: 7 and 14 ducks, respectively, except that bag and possession limits may include no more than 2 female mallards, 1 pintail, 4 scaup, and 2 redheads.

Geese

Season Dates: Open September 15, 2004, and close February 29, 2005.

Daily Bag and Possession Limits: 7 and 14 geese, respectively; except that the bag limits may not include more than 2 brant and 1 cackling Canada goose. The Tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting of 365 ducks and 365 geese.

Snipe

Season Dates: Open September 15, 2004, through February 29, 2005.

Daily Bag and Possession Limits: 8 and 16, respectively.

General Conditions: All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the Tribe. Nontribal hunters 16 years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face of the stamp. Other tribal regulations apply, and may be obtained at the tribal office in Marysville, Washington.

(s) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

Mourning Dove

Season Dates: Open September 1, end December 31, 2004.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

(t) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

Geese

Season Dates: Open September 11, 2004, and close September 25, 2004, and open November 8, 2004, close February 21, 2005.

Daily Bag Limits: 5 Canada geese during the first period, 3 during the second, and 15 snow geese.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. All basic Federal migratory bird hunting regulations contained in 50 CFR will be observed.

(u) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only)

Ducks and Mergansers

Season Dates: Open September 27, close December 14, 2004.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 mallards and 1 canvasback.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1, close September 24, 2004, and open September 25, 2004, close December 14, 2004.

Daily Bag Limit: Eight geese during first season and five during late season.

Coots

Season Dates: Open September 4, close November 30, 2004.

Daily Bag Limit: 20 coots.

Sora and Virginia Rails

Season Dates: Open September 4, close November 30, 2004.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe and Woodcock

Season Dates: Open September 4, close November 30, 2004.

Daily Bag Limit: 10 snipe and 10 woodcock.

Mourning Dove

Season Dates: Open September 4, close November 30, 2004.

Daily Bag Limit: 25 doves.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required.

(v) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

Band-tailed Pigeons (Wildlife Management Unit 10 and areas south of Y–70 in Wildlife Management Unit 7, only)

Season Dates: Open September 1, close September 15, 2004.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves (Wildlife Management Unit 10 and areas south of Y–70 in Wildlife Management Unit 7, only)

Season Dates: Open September 1, close September 15, 2004.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: All nontribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all nontribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking.

Dated: August 31, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–20127 Filed 8–31–04; 3:34 pm]

BILLING CODE 4310–55–P

Reader Aids

Federal Register

Vol. 69, No. 171

Friday, September 3, 2004

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202–741–6000
Laws	741–6000
Presidential Documents	
Executive orders and proclamations	741–6000
The United States Government Manual	741–6000
Other Services	
Electronic and on-line services (voice)	741–6020
Privacy Act Compilation	741–6064
Public Laws Update Service (numbers, dates, etc.)	741–6043
TTY for the deaf-and-hard-of-hearing	741–6086

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (orchange settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

53335–53602 1
53603–53790 2
53791–53998 3

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12333 (See EO 13354) 53589
12333 (Amended by EO 13355) 53593
12333 (See EO 13356) 53599
12958 (See EO 13354) 53589
12958 (See EO 13356) 53599
13311 (See EO 13356) 53599
13353 53585
13354 53589
13355 53593
13356 53599

7 CFR

59 53784
226 53502
301 53335
457 53500
916 53791
917 53791

8 CFR

215 53603
235 53603
252 53603

14 CFR

21 53335
39 ..... 53336, 53603, 53605, 53607, 53609, 53794
71 ..... 53614, 53976
73 ..... 53795, 53796
91 53337
97 53798

Proposed Rules:
25 53841
39 ..... 53366, 53655, 53658, 53846, 53848, 53853, 53855, 53858
71 ..... 53661, 53860, 53861

16 CFR

Proposed Rules:
436 53661

17 CFR

Proposed Rules:
37 53367
38 53367
210 53550
240 53550
249 53550

18 CFR

342 53800

21 CFR

20 53615
201 53801
522 ..... 53617, 53618

Proposed Rules:
20 53662

22 CFR

22 53618

24 CFR

24 53978
236 53558

26 CFR

1 53804

Proposed Rules:
1 ..... 53373, 53664
26 53862

28 CFR

549 53804

29 CFR

Proposed Rules:
1210 53373

31 CFR

356 53619

33 CFR

117 ..... 53337, 53805

Proposed Rules:
100 53373
117 53376

36 CFR

7 ..... 53626, 53630

38 CFR

19 53807
20 53807

39 CFR

111 ..... 53641, 53808

Proposed Rules:
111 ..... 53664, 53665, 53866

40 CFR

52 ..... 53778, 53835
63 ..... 53338, 53980
170 53341

Proposed Rules:
51 53378
63 ..... 53380, 53987
166 53866

44 CFR

64 53835

46 CFR

67 53838

47 CFR

25.....53838
32.....53645
51.....53645
64.....53346
65.....53645
73.....53352

Proposed Rules:

64.....53382

48 CFR

1871.....53652

Proposed Rules:

19.....53780
52.....53780

49 CFR

171.....53352
541.....53354

Proposed Rules:

10.....53385
395.....53386

50 CFR

20.....53564, 53990
600.....53359
635.....53359
648.....53359, 53839
660.....53359, 53362
679.....53359, 53364, 53653

Proposed Rules:

679.....53397
680.....53397

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 3, 2004

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Oil pipeline companies (Interstate Commerce Act):
Oil pipeline rate methodologies and procedures; oil pipeline rate index; published 9-3-04

FEDERAL COMMUNICATIONS COMMISSION
Television broadcasting:
Cable Television Consumer Protection and Competition Act—
Direct broadcast satellite public interest obligations; published 9-3-04

HOMELAND SECURITY DEPARTMENT
Coast Guard
Vessel documentation and measurement:
Lease financing for coastwise trade; published 9-3-04

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
California tiger salamander; threatened status determination and existing routine ranching activities exemption; published 8-4-04
Critical habitat designations—
Pierson's milk-vetch; published 8-4-04

JUSTICE DEPARTMENT
Prisons Bureau
Inmate control, custody, care, etc.:
Over-the-counter (OTC) medications; inmate access
Correction; published 9-3-04

LABOR DEPARTMENT
Occupational Safety and Health Administration
Safety and health standards, etc.:
Respiratory protection—
Controlled negative pressure REDON fit testing protocol; published 8-4-04

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 7-30-04
Empresa Brasileira de Aeronautica, S.A. (EMBRAER); published 7-30-04
Eurocopter France; published 7-30-04
Fokker; published 7-30-04
Standard instrument approach procedures; published 9-3-04

RULES GOING INTO EFFECT SEPTEMBER 4, 2004

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Nectarines and peaches grown in—
California; published 9-3-04

HOMELAND SECURITY DEPARTMENT
Coast Guard
Regattas and marine parades:
Susquehana River; Port Deposit, MD; marine events; published 8-31-04

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air carrier certification and operations:
Light-sport aircraft
Correction; published 8-18-04

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Almonds grown in—
California; comments due by 9-7-04; published 7-6-04 [FR 04-15278]
Cherries (tart) grown in—
Michigan et al.; comments due by 9-7-04; published 7-9-04 [FR 04-15584]
Cotton classing, testing and standards:
Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]
Pears (winter) grown in—
Oregon and Washington; comments due by 9-7-04; published 8-16-04 [FR 04-18615]
Prunes (dried) produced in—
California; comments due by 9-7-04; published 8-16-04 [FR 04-18611]
Raisins produced from grapes grown in—
California; comments due by 9-7-04; published 7-9-04 [FR 04-15583]

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Japanese beetle; comments due by 9-7-04; published 7-6-04 [FR 04-15214]

AGRICULTURE DEPARTMENT
Forest Service
National Forest System lands:
Locatable minerals; notice of intent or plan of operations filing requirements; comments due by 9-7-04; published 7-9-04 [FR 04-15483]

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

AGRICULTURE DEPARTMENT
Rural Housing Service
State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

AGRICULTURE DEPARTMENT
Rural Utilities Service
State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 9-10-04; published 7-27-04 [FR 04-16957]
Northeastern United States fisheries—
Atlantic sea scallop; comments due by 9-10-04; published 8-26-04 [FR 04-19474]
West Coast States and Western Pacific fisheries—
American Samoa; pelagic longline fishery; limited entry; comments due by 9-7-04; published 7-22-04 [FR 04-16587]
West Coast salmon; comments due by 9-7-04; published 8-20-04 [FR 04-19166]
West Coast salmon; comments due by 9-10-04; published 8-26-04 [FR 04-19558]
West Coast salmon; comments due by 9-10-04; published 8-26-04 [FR 04-19557]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA
Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DENALI COMMISSION
National Environmental Policy Act; implementation:
Policies and procedures; comments due by 9-9-04; published 8-10-04 [FR 04-18100]

ENERGY DEPARTMENT
Energy Efficiency and Renewable Energy Office
Consumer products; energy conservation program:
Energy conservation standards—
Commercial packaged boilers; test procedures and efficiency standards; Open for comments until further notice; published 12-30-99 [FR 04-17730]

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric rate and corporate regulation filings:
Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and

TREASURY DEPARTMENT
Foreign Assets Control Office
Sudanese and Libyan sanctions regulations and Iranian transactions regulations:
Agricultural commodities, medicine, and medical devices; export licensing procedures effectiveness; comments due by 9-8-04; published 8-9-04 [FR 04-17954]

TREASURY DEPARTMENT
Thrift Supervision Office
Community Reinvestment Act; implementation; comments due by 9-7-04; published 7-8-04 [FR 04-15526]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

H.R. 4842/P.L. 108–302

United States-Morocco Free Trade Agreement Implementation Act (Aug. 17, 2004; 118 Stat. 1103)

Last List August 12, 2004

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Order Now!

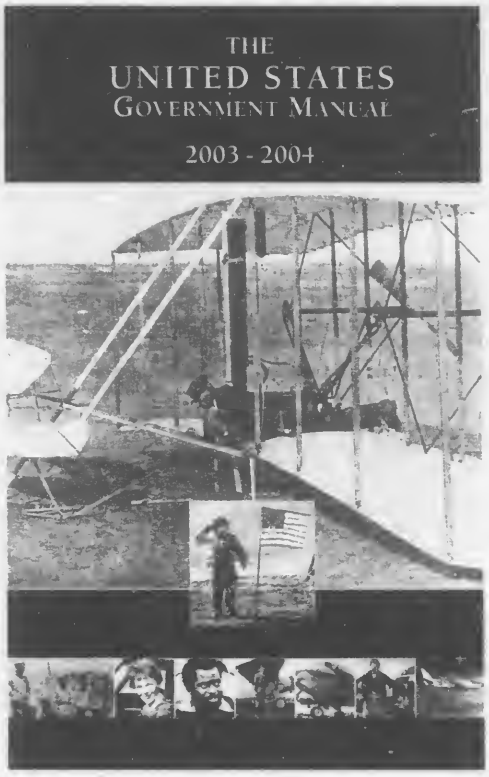
The United States Government Manual 2003/2004

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.



$52 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
***7917**

☐ **YES**, please send me ——— copies of **The United States Government Manual** 2003/2004,
S/N 069–000–00150–5 at $52 ($72.80 foreign) each.

Total cost of my order is $ ———— . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/03

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Papers of the Presidents of the United States

William J. Clinton

1997
(Book I) $69.00

1997
(Book II) $78.00

1998
(Book I) $74.00

1998
(Book II) $75.00

1999
(Book I) $71.00

1999
(Book II) $75.00

2000–2001
(Book I) $68.50

2000–2001
(Book II) $63.00

2000–2001
(Book III) $75.00

George W. Bush

2001
(Book I) $70.00

(Book II) $47.00

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954
(Rev 5/04)

Printed on recycled paper