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

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 2003–7]

Administrative Fines: Correction

AGENCY: Federal Election Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rules governing the Administrative Fines program that were published in the **Federal Register** on March 17, 2003. The correction relates to a technical amendment updating a citation to the Federal Claims Collection Standards.

DATES: The correction is effective March 17, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel or Dawn M. Odrowski, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On March 17, 2003, the Federal Election Commission published in the **Federal Register** final rules governing the Administrative Fines program. *See* Administrative Fines; final rules, 68 FR 12572 (March 17, 2003). These final rules included a technical amendment to 11 CFR 111.45 to correct a citation to the Federal Claims Collection Standards (''the Standards'') in response to the revision and recodification of the Standards after the original Administrative Fines regulations were published in May 2000. In the March 17, 2003, **Federal Register** publication, instruction number 4 incorrectly identified ''General Accounting Office'' rather than ''Government Accounting Office'' as the language that is removed from 11 CFR 111.45.

Correction of Publication

■ Accordingly, the publication of final regulations that were the subject of FR Doc. 2003–6, published on March 17, 2003 (68 FR 12572), is corrected as follows:

PART 111—COMPLIANCE PROCEDURES (2 U.S.C. 437g, 437d(a))

■ On page 12580, column 1, correct instruction number 4 to read as follows:

§ 111.45 [Corrected]

''4. Section 111.45 is amended by removing in the second sentence the phrase, '4 CFR parts 101 through 105' and by adding in its place, '31 CFR parts 900 through 904,' and by removing in the second sentence the phrase, 'Government Accounting Office' and adding in its place, 'U.S. Department of the Treasury.' ''

Dated: April 1, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–8307 Filed 4–4–03; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1730

RIN 2550–AA25

Public Disclosure of Financial and Other Information

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight is issuing a final regulation that sets forth public disclosure requirements with respect to financial and other information by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, or Christine C. Dion, Associate General Counsel, telephone (202) 414–6924 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, entitled the ''Federal Housing Enterprises Financial Safety and Soundness Act of 1992'' (Act) (12 U.S.C. 4501 *et seq.*), established OFHEO as an independent office within the Department of Housing and Urban Development to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) are capitalized adequately and operate safely and in compliance with applicable laws, rules, and regulations.

The relationship of the government-sponsored enterprises to financial markets is critical to their viability. To accomplish their missions, the Enterprises must have access to capital markets. In supporting the primary mortgage markets, secondary market players, including the Enterprises, access domestic and global financing sources and offer a variety of issuances demanded by these markets. The Enterprises are significant as participants in mortgage-backed securities and agency debt markets, and in related hedging activities, and as issuers and guarantors of securities.

As users of and participants in the financial markets, the success of the Enterprises in meeting their public policy missions and in maintaining their safe and sound operations is inextricably tied to full and robust disclosure.[1] Disclosure may provide information about the corporate operations of a firm, the intricacies of a given securities offering, or specialized information concerning particular events or business practices. In addition, Enterprise securities have become increasingly significant to

[1] *See, Freddie Mac and Fannie Mae Enhancements to Capital Strength, Disclosure and Market Discipline,* 3–4 News, Archives (October 19, 2000), available at *http://www.freddiemac.com/;* and *Franklin Raines, FDIC Panel: ''The Rise of Risk Management: Challenges for Policy Makers,''* 1, 6 Media, Speeches (July 31, 2002), available at *http://www.fanniemae.com/.*

domestic and foreign market participants. The business practices of the Enterprises affect large and small investors, debt markets and international debt holders alike. Access to the markets and the price of that access are directly affected by investor perceptions of the transparency of the Enterprises and the safety and soundness of their operations. In such an environment, as the Enterprises themselves acknowledge, they have an interest in providing ''best in class'' disclosures.[2]

B. Disclosure and Safe and Sound Operations

Full and adequate disclosure of information by the Enterprises regarding their financial conditions and risks is an important part of OFHEO's supervisory program. Full disclosure enhances market discipline.[3] OFHEO possesses both explicit and implied authorities to address the Enterprises' disclosure practices.[4] The office has at its disposal a range of supervisory tools to require full and meaningful disclosures.[5]

While the offer and sale of their securities are exempt from the registration requirements of the Securities Act of 1933 [6] and their securities are exempted securities under the Securities Exchange Act of 1934 (Exchange Act),[7] the Enterprises last July indicated that they would voluntarily register their common stock with the Securities and Exchange Commission (SEC) under the provisions of Section 12(g) of the Exchange Act, 15 U.S.C. 78*l*(g). That section permits companies not covered by the Exchange Act and its requirements for periodic disclosures to submit voluntarily to SEC rules. Voluntary registration triggers the attendant rules and regulations of the SEC, including SEC enforcement authorities. Once a company volunteers, it must remain under the strictures of the law, unless permitted to remove itself by the SEC. OFHEO is proposing this regulation, in part, to facilitate the process of voluntary registration by the Enterprises under the Exchange Act.

OFHEO has a broad statutory mandate to adopt regulations, rules, and guidances deemed to be appropriate to assuring the safety and soundness of the Enterprises including appropriate disclosures that aid in promoting market discipline. OFHEO is empowered fully to mandate financial and securities disclosure and to take related actions to implement such regulatory requirements through filings and submissions, examination and oversight of disclosures. OFHEO anticipates no duplication of regulation as it administers its broad safety and soundness obligations.

Public Disclosure of Financial and Other Information Regulation

OFHEO issued a proposed Public Disclosure of Financial and Other Information regulation, which was published in the **Federal Register** on January 23, 2003.[8] The proposed regulation complements the examination and supervisory programs of OFHEO and ensures that the disclosure policies and practices of the Enterprises comport with safety and soundness standards.

II. Response to Comments

OFHEO received six comment letters on the proposed regulation. Comment letters were received from Fannie Mae; Freddie Mac; America's Community Bankers, a national trade association for community banks of all charter types; FM Watch, a coalition of financial services and housing-related trade associations; Mr. James G. McDonald, a self-described civil rights attorney from Virginia, and Ms. Yvonne M. Wohlers from Williamsburg, Virginia.

Comments

The comments addressed both general and specific elements of the proposed rule. All comments endorsed increased public disclosure of information by the Enterprises.

The comment letters of Mr. McDonald and Ms. Wohlers, while supporting broad disclosure of Enterprise information, raised issues relating to immigration matters that are not germane to the purpose or scope of the proposed regulation that focuses on securities and other financial disclosures.

FM Watch characterized the proposed regulation as an interim measure stating its position that parity of securities regulation can result only through enactment of legislation that would repeal the exempt status of Enterprise securities under the Federal securities laws. FM Watch suggested revising the proposed regulation in several areas. FM Watch recommended that the regulation specify the procedures to be used by, and the sanctions available to, OFHEO to enforce compliance with disclosure requirements.

As noted in the preamble to the proposed regulation, OFHEO possesses a broad range of explicit and implied authorities to address the Enterprises' disclosure practices. The Office has at its disposal a variety of supervisory tools to require full and meaningful disclosure. As stated in section 1730.1(b) of the proposed and final rule, the regulation in no way limits or restricts the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including, but not limited to, ''enforcing compliance with applicable laws, rules and regulations.'' For these reasons, OFHEO has determined that it is not necessary to include a separate enforcement or compliance provision in this regulation.

FM Watch also suggested that the proposed regulation be supplemented with additional sections that would delineate the respective responsibilities and remedies of OFHEO and the SEC with respect to Enterprise disclosures. In addition, FM Watch recommended that OFHEO enter into a Memorandum of Understanding with the SEC regarding compliance issues and establish a procedure for the receipt and processing of investor grievances.

As noted in the preamble to the proposed regulation, voluntary registration triggers the attendant rules and regulations of the SEC, including SEC enforcement authorities. OFHEO proposed this regulation, in large part, to facilitate the process of voluntary registration by the Enterprises under the Exchange Act. Moreover, OFHEO has a broad statutory mandate to adopt regulations, rules, and guidances to assure safe and sound operations of the Enterprises including appropriate disclosures. OFHEO regularly communicates with the SEC. Further, OFHEO regularly receives comments from private persons and groups on a range of topics and a regulation need not establish a specialized procedure for receipt of comments. In sum, the enforcement policies and practices of OFHEO with respect to Enterprise disclosures do not require additional elaboration in this rulemaking.

FM Watch also recommended that the proposed regulation be revised by adding a section detailing various disclosure commitments made by the

[2] *Id. See,* for example, Fannie Mae, *Franklin Raines, FDIC Panel.*

[3] *See* Basel Committee on Banking Supervision's consultative paper entitled, ''A New Capital Adequacy Framework.'' (Basel Committee Publications No. 50 (June 1999)).

[4] In general, *see* 12 U.S.C. 4513, 12 U.S.C. 4631, 4632, and 4636; 12 U.S.C. 4514; 12 U.S.C. 4501(6) as well as the chartering acts for the Enterprises at 12 U.S.C. 1723a(k)(2) and 12 U.S.C. 1456(c)(2) and (3).

[5] An unsafe or unsound practice may serve as a basis for enforcement action by OFHEO pursuant to 12 CFR parts 1777 and 1780.

[6] 15 U.S.C. 77a through 77aa.

[7] 15 U.S.C. 78a through 78jj.

[8] 68 FR 3194 (January 23, 2003).

Enterprises since October 2000 in order to ensure that such commitments are strictly adhered to by the Enterprises. OFHEO has determined that such a recitation of Enterprise disclosure commitments is unnecessary in this regulation. OFHEO has indicated previously that it monitors these disclosure commitments.

FM Watch also recommended that the regulation require the Enterprises to adopt internal rules with respect to insider transactions. OFHEO's existing regulations and guidances address the maintenance of appropriate internal guidelines and procedures by the Enterprises.[9]

Both Freddie Mac and Fannie Mae commented on proposed paragraph (a) of section 1730.3 that would require the preparation of disclosures relating to an Enterprise's financial condition, results of operation, business developments, and management expectations that include supporting financial information and certifications. The requirements in paragraph (a) will be satisfied through compliance by an Enterprise with SEC disclosure requirements specified in paragraph (b)(1)–(3) of the section.

Freddie Mac characterized paragraph (a) as being ''an open-ended'' disclosure requirement. Freddie Mac also asserted that it is unclear whether OFHEO is imposing a disclosure obligation in paragraph (a) that is different from the legal standards governing other Exchange Act registrants. Freddie Mac commented that, in order to eliminate any ambiguity with respect to Enterprise disclosure obligations, proposed section 1730.3 be revised by deleting paragraph (a) to merely require the Enterprises to comply with SEC regulations specified in paragraph (b) with respect to the submission of proxy statements and insider trading reports by officers and directors. Similarly, Fannie Mae commented that section 1730.3 of the proposed regulation goes beyond filling in the regulatory ''gaps'' that the SEC would be unable to reach notwithstanding its voluntary registration. Fannie Mae characterized the proposed section as an assertion of parallel authority for OFHEO to act as a ''back-up'' regulator regarding regulations applicable to Fannie Mae by virtue of its registration with the SEC. Fannie Mae expressed its view that Congress has not charged OFHEO with the responsibility of investor protection. It further opined that there is no basis in statute or public policy for OFHEO to raise through its proposal the possibility that the agency might at some point seek to substitute its judgment for that of the SEC with respect to disclosure regulation and enforcement. Fannie Mae stated that section 1730.3 (b)(1) would make failure to meet SEC requirements a violation of OFHEO's rules as well. For those reasons, Fannie Mae urged that paragraph (b)(1), which addresses periodic disclosures required by registrants under section 12 of the Exchange Act, be deleted from the final regulation.

OFHEO notes that section 1730.3(a) simply reiterates the overall authority of OFHEO to regulate financial and other disclosures of the Enterprises as part of its statutory safety and soundness responsibilities. In supporting voluntary registration by the Enterprises under the Exchange Act, the regulation in no way impinges upon or contracts OFHEO's safety and soundness authorities. The comments of Freddie Mac and Fannie Mae go to the possible scope and exercise of those authorities that are not the focus of this section of the regulation. Further, as indicated in the preamble to the proposed rule, OFHEO's actions are guided by its statute that provides for oversight of Enterprise safety and soundness. As indicated as well in the preamble, OFHEO anticipates no duplication of regulation in meeting its obligations. Additionally, OFHEO has tools at its disposal to clarify and make certain any issue relating to the subsection's requirements should such a need arise.

In addition to its general comments, Fannie Mae requested a technical change to section 1730.3, paragraph (a) that requires each Enterprise to prepare disclosures relating to ''its financial condition, results of operation, business developments, and management's expectations. * * *'' Fannie Mae requested that the text be changed to read ''its financial condition, results of operation and business'' as Fannie Mae stated that SEC rules regarding business development and management expectations are more limited and will be adequately addressed through the periodic reports it will be required to file upon registration under the Exchange Act.

As noted earlier, however, this section addresses OFHEO's safety and soundness authority and does not reference other statutes. OFHEO's descriptions of its authorities, indeed, may be expected to be different from language employed by another regulator acting under a different statutory regime.

Both Freddie Mac and Fannie Mae commented on section 1730.3(b)(1) of the proposed regulation, that requires an Enterprise satisfying its disclosure obligations through compliance with various SEC regulations to prepare and make public reports and other materials ''that may be required under the rules and regulations of the [SEC], including interpretations of the Commission and its staff. * * *'' Both Enterprises asserted that this would be a new requirement, not imposed on other SEC registrants. Also, they noted that SEC staff interpretations do not establish legally binding and enforceable disclosure requirements for SEC registrants. For these reasons, they requested that reference to staff interpretations be deleted from paragraph (b)(1) in the final regulation.

The provision is retained as proposed. SEC registrants are expected to comply with staff interpretations that are applicable to those registrants. The Enterprises can, of course, discuss with the SEC staff the appropriate method for complying with interpretations.

Freddie Mac also commented on section 1730.4 of the proposed regulation, which requires the Enterprises to provide to OFHEO copies of all disclosures filed with the SEC. Freddie Mac requested that OFHEO modify the section to indicate that OFHEO would provide confidential treatment for such submissions similar to that provided by the SEC under Rule 24b–2. OFHEO has existing procedures that address the treatment of confidential Enterprise submissions. The procedures provide case-by-case determinations and ensure that nonpublic, confidential information is safeguarded whenever appropriate. Accordingly, OFHEO has determined that it is not necessary to modify section 1730.4 in the final regulation.

OFHEO is adopting the regulation as proposed.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This regulation would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. This regulation, however, has been submitted to the Office of Management and Budget

[9] For example, among others, 12 CFR 1710 and 1720 (Appendix A).

(OMB) for review under other provisions of Executive Order 12866 as a significant regulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of this final regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the regulation, as herein adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

Executive Order 13132, Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. The Enterprises are federally chartered corporations supervised by OFHEO. This regulation sets forth minimum disclosure standards with which the Enterprises must comply for Federal supervisory purposes and address the safety and soundness authorities of the agency. This regulation does not affect in any manner the powers and authorities of any State with respect to the Enterprises or alter the distribution of power and responsibilities between State and Federal levels of government. Therefore, OFHEO has determined that this final regulation has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

List of Subjects in 12 CFR Part 1730

Government-sponsored enterprises, Financial disclosure, Reporting and recordkeeping requirements, Records.

■ Accordingly, for the reasons stated in the preamble, OFHEO adds part 1730 to subchapter C of 12 CFR Chapter XVII to read as follows:

Subchapter C—Safety and Soundness

PART 1730—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION

Sec.

Authority: 12 U.S.C. 4513; 12 U.S.C. 4514; 12 U.S.C. 4631; and, 12 U.S.C. 4632.

§ 1730.1 Purpose.

(a) The purpose of this part is to require the Enterprises to prepare and submit financial and other disclosures as specified by OFHEO.

(b) This part does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules and regulations.

§ 1730.2 Definitions.

For purposes of this part, the term:

(a) *Commission* means the Securities and Exchange Commission (or SEC).

(b) *Disclosure or disclosures* means any report[s], form[s], or other information submitted by the Enterprises pursuant to this part and may be used interchangeably with the terms ''report[s]'' or ''form[s].''

(c) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term ''Enterprises'' means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(d) *Exchange Act* means the Securities Exchange Act of 1934.

(e) *OFHEO* means the Office of Federal Housing Enterprise Oversight (or the office).

§ 1730.3 Periodic disclosures.

(a) Each Enterprise shall prepare disclosures relating to its financial condition, results of operation, business developments, and management's expectations that include supporting financial information and certifications.

(b) The requirement of paragraph (a) of this section for disclosures will be satisfied if:

(1) In the case of an Enterprise having a class of securities registered pursuant to Section 12 of the Exchange Act, the Enterprise prepares and makes public an annual report, quarterly report and current reports and such other materials that may be required under the rules and regulations of the Commission, including interpretations of the Commission and its staff and rules governing audited financial statements;

(2) The Enterprise files with the Commission all reports, statements, and forms required pursuant to Sections 14(a) and (c) of the Exchange Act and by rules and regulations adopted by the Commission under those sections that would be required to be filed by the Enterprises if the Enterprises has a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act; and,

(3) The officers and directors of the Enterprise file with the Commission all reports and forms relating to the common stock of the Enterprise that would be required to be filed by the officers and directors pursuant to Section 16 of the Exchange Act and by rules and regulations adopted by the Commission under that section if the Enterprises had a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act.

§ 1730.4 Submission of disclosures.

Unless otherwise required by OFHEO, the Enterprises shall provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC pursuant to § 1730.3.

Dated: April 1, 2003.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 03–8379 Filed 4–4–03; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is amending its procedures governing the mandatory release of military prisoners confined in Federal civilian prisons. Such mandatory release is earned through good time credits. The

amendment implements a Department of Defense Instruction that permits the U.S. Parole Commission to place a military prisoner who is released from a Federal civilian prison under ''mandatory supervision as if on parole'' until the expiration of the sentence imposed, if the Commission determines that such supervision is necessary for the orderly transition of the offender back into community.

DATES: *Effective Date:* April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Former Department of Defense regulations did not permit any military prisoner who was released by operation of law due to good time credits to be subject to supervision in the community for the remainder of the imposed sentence. This was in contrast to the requirement that applies to Federal civilian prisoners who are eligible for but denied parole. Prisoners sentenced by military courts martial and then transferred to a Federal institution come under the exclusive jurisdiction of the U.S. Parole Commission for parole purposes pursuant to 10 U.S.C. 858. Thus, in the absence of any rule authorizing post-release supervision for military mandatory releasees, there was a gap in the Commission's authority to require post-release supervision for military prisoners mandatorily released on good time from institutions operated by the Federal Bureau of Prisons. (The Bureau of Prisons considered former 18 U.S.C. 4164—which authorizes mandatory release supervision for federal civilian prisoners eligible for parole—to be inapplicable to military prisoners who committed their crimes on or after November 1, 1987.) Thus, if the Commission denied parole and continued a military prisoner to the expiration of his sentence, the Commission was not able to supervise the offender. However, if the Commission paroled the military prisoner prior to the mandatory release date, the Commission could supervise the military offender just as any other parolee to the expiration of the prisoner's sentence.

At the request of the Attorney General of the United States, the Department of Defense has amended its regulations regarding the mandatory release of military prisoners, including prisoners in the custody of the Bureau of Prisons. *See* DoD Instruction 1325.7, ''Administration of Military Correctional Facilities and Clemency and Parole Authority,'' July 17, 2001. These regulations generally allow for the supervision of military prisoners mandatorily released with good time deductions.[1] In the regulations, the Department of Defense adopted a policy to use mandatory supervision in all cases except where the Service Clemency and Parole Boards find it inappropriate. The regulations also permit the Parole Commission to place military prisoners who are in Federal civilian custody on ''mandatory supervision'' after they are mandatorily released, if the Commission finds that such supervision is appropriate ''to provide an orderly transition to civilian life for released prisoners and to protect the communities into which the prisoners are released.'' *See* DoD Instruction 1325.7 (6.20.8). However, the DoD Instruction is silent as to whether the Commission should, as the Department of Defense has done, adopt a general presumption that mandatory supervision is appropriate. Additionally, the new DoD instruction may be applied only to offenders who committed their crimes 30 days or more after the rule change. Therefore, under the terms of the DoD instruction, the Commission can only require supervision if the prisoner committed his crime on or after August 16, 2001.

The Commission is adopting a paragraph at the end of 28 CFR 2.35 so that the Commission's rules will conform to the Department of Defense regulations and policy regarding the mandatory release of military prisoners. Pursuant to the DoD Instruction, the amended rule states that when the Commission orders a military offender continued to expiration, the military prisoner will be placed on ''mandatory supervision'' until the expiration of his sentence if the Commission finds that the DoD criteria are met. The Commission is adopting this rule in order to give military offenders incarcerated in federal civilian prisons notice that, if the Commission denies the prisoner parole and continues the prisoner to the expiration of the prisoner's sentence, the prisoner may be required to serve a period of mandatory supervision after the prisoner's release. Although the Commission already has the authority under Department of Defense regulations to order mandatory supervision for military prisoners who committed their offenses on or after August 16, 2001, this rule further clarifies the Commission's authority and explains the Commission's general statement of policy regarding mandatory supervision.

The amended rule also includes the presumption that supervision is appropriate for all military mandatory releasees unless case-specific factors indicate that supervision is not appropriate. *See* DoD Instruction 1325.7 (6.20.1). The Commission is adopting this presumption for several reasons. First, the presumption in favor of supervision conforms with the presumption in the DoD Instruction. The inclusion of the presumption in favor of supervision after mandatory release will thus result in a uniform application of the Instruction among military offenders released from military and civilian institutions. Most importantly, the Commission agrees with the Department of Defense's general assessment that supervision in the community is, for the majority of cases, a highly effective technique to provide for a transition into the community and to protect the communities into which the prisoners are released. Therefore, the rule states that mandatory supervision shall be presumed unless the Commission finds case-specific factors illustrating that such supervision is inappropriate.

Finally, the final rule makes one change from the interim rule regarding early termination of mandatory supervision. The Commission has refrained from making early termination from supervision decisions for military offenders because it has considered this authority to be vested in the appropriate military clemency board. *See* Parole Commission Rules and Procedures Manual 2.43–04. Accordingly, the Commission is clarifying the final sentence of the rule, noting that the authority to terminate a military prisoners mandatory supervision rests with the appropriate military clemency board. The rule now makes it clear that a prisoner on ''mandatory supervision'' will be subject to the conditions of parole at 28 CFR 2.40 unless the appropriate military clemency board takes action terminating the prisoner's supervision or sentence.

Implementation

This final rule will be implemented for any military offender mandatorily released on good time deductions from a Federal civilian prison if the offender committed his offense after August 15, 2001.

[1] Mandatory supervision for military offenders differs from mandatory release for ''old law'' U.S. Code offenders under 18 U.S.C. 4164 since such supervision runs to the full term without the 180-day reduction that applies to civilian, ''old law'' mandatory releasees.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this interim rule does not constitute a significant rule within the meaning of Executive Order 12866. The interim rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Amended Rule

■ Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR part 2.

PART 2—[AMENDED]

■ 1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Subpart A—United States Code Prisoners and Parolees

■ 2. Section 2.35 is amended by revising the following paragraph (d):

§ 2.35 Mandatory release in the absence of parole.

* * * * *

(d) If the Commission orders a military prisoner who is under the Commission's jurisdiction for an offense committed after August 15, 2001 continued to the expiration of his sentence (or otherwise does not grant parole), the Commission shall place such prisoner on mandatory supervision after release if the Commission determines that such supervision is appropriate to provide an orderly transition to civilian life for the prisoner and to protect the community into which such prisoner is released. The Commission shall presume that mandatory supervision is appropriate for all such prisoners unless case-specific factors indicate that supervision is inappropriate. A prisoner who is placed on mandatory supervision shall be deemed to be released as if on parole, and shall be subject to the conditions of release at § 2.40 until the expiration of the maximum term for which he was sentenced, unless the prisoner's sentence is terminated early by the appropriate military clemency board.

Dated: March 21, 2003.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 03–7850 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF THE TREASURY

31 CFR Part 800

Office of International Investment; Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends regulations that implement section 721 of Title VII of the Defense Production Act of 1950 (the ''DPA''), as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988. This rule amends only those provisions relating to the filing of voluntary notice with the Committee on Foreign Investment in the United States (CFIUS).

DATES: This final rule is effective as of April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Gay Sills, Director, Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Ave., NW., Washington, DC 20220, (202) 622–1860.

SUPPLEMENTARY INFORMATION: Section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102–558) amended section 709 of the DPA by requiring that any regulation issued under the DPA be published in the **Federal Register** and that opportunity for public comment be provided for not less than thirty days. Accordingly, this regulation was published in proposed form in the **Federal Register** on November 21, 2002. The Treasury Department received no comments. The regulations are therefore now being published in final form, exactly as proposed.

This final regulation provides parties that file a notice with CFIUS under section 721 with the option of filing electronically, providing just a single paper copy to CFIUS, or the option of continuing the current practice of providing CFIUS 13 paper copies. By filing electronically, companies could substantially decrease the paperwork burden of providing CFIUS notice under section 721.

Executive Order 12866

These regulations are not subject to the requirements of Executive Order 12866 because they relate to foreign and military affairs functions of the United States.

Paperwork Reduction Act

The collections of information provided for in this rule have been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 1505–0121. The proposed rule does not change the information collection other than to permit an alternative means of submitting notice to the Committee on Foreign Investment in the United States.

Administrative Procedure Act

Because this final rule relates to foreign and military affairs functions of the United States, it is not subject to a delayed effective date pursuant to 5 U.S.C. 553(a)(1).

Regulatory Flexibility Act

This regulation implements Section 721 of the Defense Production Act of 1950 (''Section 721'') (50 U.S.C. App. 2170)(''DPA''). Section 709 of the DPA (50 U.S.C. App. 2159) provides that the regulations issued under it are not subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553). Notwithstanding this exemption, section 709 of the DPA was amended by section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102–558) to require any regulation issued under the DPA to be published in the **Federal Register** for at least thirty days to provide for public comment. This requirement subjected the proposed regulation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. When the proposed rule was published, the Treasury Department estimated that an average filing requires about 60 hours of preparation time. This final rule will permit parties to file notifications electronically, which is expected to reduce the preparation time somewhat because it will no longer be necessary to provide 13 paper copies of a filing. Instead, a filer can provide a single paper copy to the Treasury Department along with the electronic filing. Therefore, the impact of the final rule on small companies that file notifications with CFIUS is expected to be marginally beneficial.

List of Subjects in 31 CFR Part 800

Foreign investments in United States, Investigations, National defense,

Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set out in the preamble, 31 CFR part 800 is amended as follows:

PART 800—REGULATIONS PERTAINING TO MERGERS, ACQUISITIONS, AND TAKEOVERS BY FOREIGN PERSONS

■ 1. The authority citation for part 800 continues to read as follows:

Authority: Section 721 of Pub. L. 100–418, 102 Stat. 1107, made permanent law by section 8 of Pub. L. 102–99, 105 Stat. 487 (50 U.S.C. App. 2170) and amended by section 837 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, 106 Stat. 2315, 2463; E.O. 12661, 54 FR 779, 3 CFR, 1988 Comp., p. 618.

■ 2. Section 800.401 is revised to read as follows:

§ 800.401. Procedures for notice.

(a) A party or parties to an acquisition subject to section 721 may submit a voluntary notice to the Committee of the proposed or completed acquisition by:

(1) Sending thirteen copies of the information set out in § 800.402 to the Staff Chairman of the Committee on Foreign Investment in the United States (''Staff Chairman''), Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220; or

(2) Sending:

(i) One signed paper copy of the information set out in § 800.402 to the Staff Chairman of the Committee on Foreign Investment in the United States (''Staff Chairman''), Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220; and

(ii) One electronic copy of this same information in Adobe Acrobat (PDF) or Microsoft Word format to the following e-mail address: *CFIUS@do.treas.gov.* Electronic filings that exceed 5 Megabytes (MB) will need to be divided into smaller transmissions of no more than 5 MB each, which should be sent individually as attachments to separate e-mails.

(b) Any member of the Committee may submit an agency notice of a proposed or completed acquisition to the Committee through its Staff Chairman if that member has reason to believe, based on facts then available, that the acquisition is subject to section 721 and may have adverse impacts on the national security. In the event of agency notice, the Committee will promptly furnish the parties to the acquisition with written advice of such notice.

(c) No agency notice, or review or investigation by the Committee, shall be made with respect to a transaction more than three years after the date of conclusion of the transaction, unless the Chairman of the Committee, in consultation with other members of the Committee, requests an investigation.

(d) No communications other than those described in paragraphs (a), (b) and (c) of this section shall constitute notice for purposes of section 721. In any case where a party or parties file(s) electronically under paragraph (a) of this section, the signed paper copy shall constitute the original copy, and CFIUS will not notify the parties of its acceptance of a filing until the original copy has been received by the Office of International Investment.

John B. Taylor,

Under Secretary of the Treasury.

[FR Doc. 03–8302 Filed 4–4–03; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–03–024]

Drawbridge Operation Regulations: Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Wantagh State Parkway Bridge, mile 16.1, across Goose Creek at Wantagh, New York. Under this temporary deviation the bridge may remain in the closed position from 6 a.m. on April 1, 2003 through 4 p.m. on April 30, 2003. This temporary deviation is necessary to facilitate painting operations at the bridge.

DATES: This deviation is effective from April 1, 2003 through April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Wantagh State Parkway Bridge has a vertical clearance in the closed position of 16 feet at mean high water and 19 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(i).

The bridge owner, New York State Department of Transportation, requested a temporary deviation from the drawbridge operation regulations to facilitate painting operations at the bridge. The bridge must remain in the closed position to perform this work.

The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge maintenance and to minimize any disruption to the marine transportation system.

Under this temporary deviation the Wantagh State Parkway Bridge will remain in the closed position from 6 a.m. on April 1, 2003 through 4 p.m. on April 30, 2003.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: March 28, 2003.

Vivien S. Crea,

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

[FR Doc. 03–8282 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–7476–7]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; One-Hour Ozone Attainment Demonstration for the Rhode Island Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This action approves Rhode Island's one-hour ozone attainment demonstration for the Rhode Island serious ozone nonattainment area, submitted by the Rhode Island Department of Environmental Management (DEM) on March 24, 2003. This action is based on the requirements of the Clean Air Act as amended in 1990, related to one-hour ozone attainment demonstrations. In addition, EPA is establishing an attainment date of November 15, 2007, for the area, and is approving the contingency measures SIP, the 2007 motor vehicle emissions

budgets, and the reasonably available control measures analysis also submitted by Rhode Island on March 24, 2003. A notice of proposed rulemaking was published for this action on February 14, 2003. EPA received no comments on that proposal.

EFFECTIVE DATE: This rule will become effective on May 7, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; and the Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island 02908–5767. Please telephone in advance before visiting.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, (617) 918–1664.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. What Rhode Island SIP Revision Is the Topic of This Action?

The Rhode Island DEM submitted a one-hour ozone attainment demonstration SIP on March 24, 2003, for the Rhode Island serious ozone nonattainment area. The SIP revision was subject to public notice and comment by the State, and a public hearing was held on February 27, 2003. The attainment demonstration included a reasonably available control measures (RACM) analysis, contingency measures, and 2007 motor vehicle emissions budgets for the Rhode Island serious ozone nonattainment area. Rhode Island requested an attainment date for this area of November 15, 2007, and included a demonstration of how its plan will reach attainment as expeditiously as practicable by that date. The final plan adopted by Rhode Island is not substantially different than the proposed submission provided to EPA on January 27, 2003.

II. What Previous Action Have We Taken on This SIP Revision?

EPA published a notice of proposed rulemaking for the Rhode Island attainment demonstration SIP on February 14, 2003 (68 FR 7476). In that action, EPA reviewed the proposed Rhode Island attainment plan which includes a RACM analysis, contingency measures, and 2007 motor vehicle emissions budgets with an attainment date of November 15, 2007, and proposed to approve it if Rhode Island did not make substantial revisions during the state review process. If Rhode Island did make substantial revisions, EPA indicated it would issue a new proposed rule. The notice of proposed rulemaking states EPA's conclusions regarding the approvability of the various portions of the SIP, which will not be repeated here. Readers are directed to the proposal for further information.

III. What Motor Vehicle Emissions Budgets Are We Approving?

On January 27, 2003, Rhode Island submitted proposed motor vehicle emissions budgets for volatile organic compounds (VOC's) and nitrogen oxides (NO_X) for the 2007 attainment year for the Rhode Island serious ozone nonattainment area. Under EPA's policy [1] for reviewing the adequacy of motor vehicle emissions budget submissions, these budgets were posted on the EPA adequacy Web site for public comment on February 19, 2003, at *www.epa.gov/otaq/transp/conform/currsips.htm,* and a public comment period was open until March 17, 2003. The SIP was also made available electronically on the Rhode Island DEM Web site at *www.state.ri.us/dem/programs/benviron/air/attainpn.htm.* EPA received no comments on these budgets during the adequacy comment period, and EPA also received no comments on our February 14, 2003, proposed approval of these budgets.

The Rhode Island DEM did, however, receive comment during their State comment period on the proposed motor vehicle emissions budgets. As part of their attainment demonstration, Rhode Island calculated on-road mobile source emissions for 1999, 2002 and 2007. When apportioning vehicle miles traveled (VMT) for 1999 among the light-duty gasoline vehicle and light-duty gasoline truck categories, Rhode Island utilized vehicle registration data for such vehicles from the Federal Highway Administration's Highway Statistics Series.[2] When apportioning VMT for 2002 and 2007, Rhode Island made further adjustments based on MOBILE6 default information to reflect the change in VMT mix that occurs over time due to increased sales of vehicles (*e.g.*, minivans and sport utility vehicles) in the light-duty gasoline truck category.

However, a commenter to the Rhode Island DEM noted an error in the methodology related to the vehicle registration data that were used. Some of the light-duty trucks reflected in the vehicle registration data were omitted in the reapportionment calculation and thus the percent of VMT attributed to light-duty gasoline vehicles and light-duty gasoline trucks were slightly off for each of the three years analyzed. Rhode Island DEM agreed that this technical error should be corrected and revised the on-road mobile source emission estimates for 1999, 2002 and 2007. In their submission dated March 24, 2003, Rhode Island includes revised mobile source budgets for 2007. These budgets properly reflect the percentage of light-duty gasoline trucks expected in the vehicle fleet mix in 2007. The attainment year motor vehicle emissions budgets established by this plan that we are approving are contained in Table 1 below.

TABLE 1.—2007 EMISSIONS BUDGETS FOR ON-ROAD MOBILE SOURCES IN TONS PER SUMMER DAY (TPSD)

Area	2007 VOC budget	2007 NO_X budget
Rhode Island	30.68	33.97

These revised budgets represent an increase of only approximately one percent as compared with the budgets that were proposed for approval on February 14, 2003. This minimal change in the motor vehicle emissions budgets does not affect the reasoning behind our February 14, 2003, proposed approval of Rhode Island's proposed attainment demonstration submitted on January 27, 2003, and EPA does not consider it to be a substantial change. Further, EPA finds that there is good cause pursuant to 5 U.S.C. 553(b)(3)(B) that publishing an additional notice of proposed rulemaking to take comment on this change would be impracticable, unnecessary, and contrary to the public interest. EPA is under court order to promulgate a Federal implementation plan if it cannot approve Rhode Island's attainment demonstration and its attendant motor vehicle emissions budgets by March 31, 2003. The recent submission of this change, less than a week before that deadline, makes it impossible to take comment on the change in an orderly process prior to the

[1] Memorandum from G. MacGregor, dated May 14, 1999, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.''

[2] Data obtained from the Federal Highway Administration's ''Highway Statistics 2000;'' tables MV–1 and MV–9; *see http://www.fhwa.dot.gov/ohim/hs00/mv.htm.*

court's deadline for our action. Further opportunity for comment is also unnecessary because the substance of the issue concerning the corrected budgets was thoroughly aired in the State's public participation process in a time frame virtually contemporaneous with EPA's rulemaking on this attainment demonstration. It appears that any members of the public who were interested in this issue had ample opportunity to address it in the State's process, and it would be simply redundant for EPA to offer an essentially identical opportunity to ventilate the same question a few weeks after the State had done so. Finally, it is contrary to the public interest to delay EPA's approval of these 2007 budgets, which substantially reduce the level of motor vehicle emissions allowed under Rhode Island's SIP when compared with the currently approved motor vehicle emissions budgets. While the adjustment described above increased the size of the 2007 budgets very slightly compared with Rhode Island's proposal, the overall rate of decrease in the budgets over time remains essentially unchanged and, most importantly, remains consistent with Rhode Island's attainment demonstration. For these combined reasons, EPA finds good cause to dispense with further notice and public procedure concerning this minor change in the 2007 budgets.

Therefore, today EPA is approving these motor vehicle emissions budgets for the State of Rhode Island for 2007 into the SIP. EPA is approving these 2007 motor vehicle emissions budgets because they are consistent with the control measures in the SIP, and the SIP as a whole demonstrates attainment of the 1-hour ozone standard. The approved 2007 motor vehicle emissions budgets would apply in all future conformity determinations for an analysis year of 2007 and later. Note that a conformity determination with an analysis year between the present and 2006 would use the year 1999 motor vehicle emissions budgets of 41.57 tons per summer day of VOC and 46.40 tons per summer day of NO_X established in the approved post-1996 rate-of-progress plan for the Rhode Island serious ozone nonattainment area. 66 FR 30811 (June 8, 2001). However, at this time there is no analysis year required prior to 2007.

IV. EPA Action

EPA is approving the ground-level one-hour ozone attainment demonstration SIP for the Rhode Island serious ozone nonattainment area. EPA is also approving the attainment date for this area as November 15, 2007. EPA also approves the contingency measures, the RACM analysis, and the 2007 volatile organic compound and nitrogen oxide motor vehicle emissions budgets for the Rhode Island serious ozone nonattainment area for use in transportation conformity.

V. Administrative Requirements

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 27, 2003.

Robert W. Varney,

Regional Administrator, EPA—New England.

■ Part 52 of 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 OO—Rhode Island

■ 2. Section 52.2076 is amended by revising the table to read as follows:

§ 52.2076 Attainment of dates for national standards.

* * * * *

Air quality control region	Pollutant					
	SO		PM_{10}	NO_2	CO	O_3
	Primary	Secondary				
Rhode Island portion of AQCR 120 (Entire State of Rhode Island)	(a)	(b)	(a)	(a)	(a)	(c)

[a] Air quality levels presently better than primary standards or area is unclassifiable.
[b] Air quality levels presently better than secondary standards or area is unclassifiable.
[c] November 15, 2007.

■ 3. Section 52.2088 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.2088 Control strategy: Ozone.

* * * * *

(b) Approval—Revisions to the state implementation plan submitted by the Rhode Island Department of Environmental Management on March 24, 2003. The revisions are for the purpose of satisfying the one-hour ozone attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act, for the Rhode Island serious ozone nonattainment area. The revision establishes a one-hour attainment date of November 15, 2007 for the Rhode Island serious ozone nonattainment area, and approves the contingency measures for purposes of attainment. This revision establishes motor vehicle emissions budgets for 2007 of 30.68 tons per day of volatile organic compounds and 33.97 tons per day of nitrogen oxides to be used in transportation conformity in the Rhode Island serious ozone nonattainment area. Rhode Island also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and to submit the results to EPA by December 31, 2004.

[FR Doc. 03–8254 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 201–4202a; FRL–7472–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for General Electric Transportation Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for General Electric Transportation Systems (GETS). GETS is a major source of nitrogen oxides (NO_X) located in Erie County, Pennsylvania. EPA is approving these revisions to establish NO_X RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on June 6, 2003 without further notice, unless EPA receives adverse written comment by May 7, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba Morris, Acting Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

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

SUPPLEMENTARY INFORMATION:

I. Background

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

II. Summary of SIP Revision

On December 9, 2002, PADEP submitted a formal revision to its SIP to establish and impose RACT for a major source of NO_X. The RACT determinations and requirements are included in the operating permit issued by PADEP. GETS is a coal-fired power generating station located in Erie County, Pennsylvania and is considered a major source of NO_X. In this instance, RACT has been established and

imposed by PADEP in an operating permit. On December 9, 2002, PADEP submitted operating permit No. OP 25–025A to EPA as a SIP revision. This operating permit includes three coal fired boilers: Boiler Nos. 1, 5 and 9. The facility shall perform annual tune-ups, and operate and maintain the three boilers in accordance with the manufacturer's recommendations. Based on a 30-day rolling average, this operating permit contains NO_X emission limit rates for each of the three boilers of 0.59 lb/MMbtu. This operating permit also contains NO_X emission limits for the three boilers based on a 12-month consecutive period. The permit specifies the following limits: 400 tons per year (tpy) for Boiler No. 1, 324 tpy for Boiler No. 5, and 520 tpy for Boiler No. 9. NO_X emission reports for each boiler shall be submitted to PADEP within 30 days of the end of each calendar quarter. Coal consumption for each boiler shall be submitted on a quarterly basis. The coal consumption report shall be submitted to PADEP within 30 days of the end of each calendar quarter. A NO_X continuous emission monitoring system (CEMS) is required for the combined stack from the three boilers which shall be operated and maintained in accordance with 25 Pa. Code Chapter 139 and PADEP's latest ''Continuous Source Monitoring Manual.'' The CEM system shall be approved by PADEP. CEMS reports shall be submitted to PADEP within 30 days after each calendar quarter, but no later than the time frame established in PADEP's latest ''Continuous Source Monitoring Manual.'' The operating permit requires GETS to maintain records as follows: (a) the facility shall maintain records to demonstrate compliance with 25 Pa. Code Sections 129.91—129.94; (b) the records shall provide sufficient data and calculations to clearly demonstrate that the requirements of 25 Pa. Code Sections 129.91—129.94 are met; and (c) records shall be retained for at least two years and shall be made available to PADEP upon request.

III. EPA's Evaluation of the SIP Revisions

EPA is approving this SIP submittal because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. Final Action

EPA is approving a revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for GETS (OP 25–025A) located in Erie County, Pennsylvania. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on June 6, 2003 without further notice unless EPA receives adverse comment by May 7, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report

regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for General Electric Transportation Systems.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the Pennsylvania's source-specific RACT requirements to control NO_X emissions from General Electric Transportation Systems in Erie County, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 19, 2003.

Thomas C. Voltaggio,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(198) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(198) Revisions pertaining to NO_X RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on December 9, 2002.

(i) Incorporation by reference.

(A) Letter of December 9, 2002 from the Pennsylvania Department of Environmental Protection transmitting source-specific NO_X RACT determinations.

(B) Operating permit (OP) for General Electric Transportation Systems, Erie County, OP 25–025A, effective August 26, 2002.

(ii) Additional Material—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(198)(i)(B) of this section.

[FR Doc. 03–8361 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 61

[SIP NO. SD–001–0013, SD–001–0014, SD–001–0015; FRL–7475–1]

Approval and Promulgation of Air Quality Implementation Plans; South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is partially approving and partially disapproving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on May 6, 1999 and June 30, 2000. The revisions modify the State's air quality rules so they are consistent with federal rules and clarify existing provisions. EPA is also removing from the SIP or not approving into the SIP, certain provisions of the State's air quality rules because they are not related to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) and are not appropriate for inclusion in the SIP. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective May 7, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

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

SUPPLEMENTARY INFORMATION: On January 27, 2003 (68 FR 3848), EPA published a notice of proposed rulemaking (NPR) for the State of South Dakota. The NPR proposed partial approval and partial disapproval of State Implementation Plan (SIP) revisions submitted by the State of South Dakota on May 6, 1999 and June 30, 2000. The May 6, 1999 and June 30, 2000 submittals revise the State's air quality rules so they are consistent with federal rules and clarify existing provisions. EPA is also removing from the SIP or not approving into the SIP, certain provisions of the State's air quality rules because they are not related to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) and are not appropriate for inclusion in the SIP.

I. Final Action

Since we received no comments on the January 27, 2003 notice of proposed rulemaking, we are partially approving and partially disapproving State Implementation Plan revisions submitted by the State of South Dakota submitted on May 6, 1999 and June 30, 2000, except for provisions that we are not acting on, or have acted on previously. The sections of the rules that we are proposing to approve will replace the same numbered sections that have been previously approved into the SIP and are as follows: Sections 74:36:01:01(1) through (79), effective 4/4/1999; 74:36:01:03, effective 4/4/1999; 74:36:01:05, effective 4/4/1999; 74:36:01:07, effective 4/4/1999; 74:36:01:08, effective 4/4/1999; 74:36:01:10, effective 4/4/1999; 74:36:01:17, effective 4/4/1999; 74:36:01:20, effective 4/4/1999; 74:36:02:02, effective 6/27/2000; 74:36:02:03, effective 6/27/2000; 74:36:02:04, effective 6/27/2000; 74:36:02:05, effective 6/27/2000; 74:36:04:03, effective 4/4/1999; 74:36:04:09, effective 4/4/1999; 74:36:04:11, effective 4/4/1999; 74:36:04:12, effective 4/4/1999; 74:36:04:12.01, 4/4/1999; 74:36:04:13, effective 4/4/1999; 74:36:01:14, effective 4/4/1999; 74:36:04:18, effective 4/4/1999; 74:36:04:19, effective 4/4/1999; 74:36:04:20, effective 4/4/1999; 74:36:04:20.01, effective 4/4/1999; 74:36:04:20.04, effective 4/4/1999; 74:36:04:22, effective 4/4/1999; 74:36:06:02, effective 4/4/1999; 74:36:06:03, effective 4/4/1999; 74:36:06:07, effective 4/4/1999; 74:36:11:01, effective 6/27/2000;

74:36:12:01, effective 6/27/2000; 74:36:13:02, effective 6/27/2000; 74:36:13:03, effective 6/27/2000; 74:36:13:04, effective 6/27/2000; and 74:36:13:07, effective 6/27/2000.

We are not acting on the following as SIP revisions because they are not appropriate to be included in the SIP: sections 74:36:07:06.01; 74:36:07:34–42.01; and 74:36:13:08; and chapters 74:36:05, 74:36:08, and 74:36:16.

The SIP provisions that we previously acted on are as follows: 74:36:07:06.2, 74:36:07:07.01, 74:36:07:11 (repealed), 74:36:07:43, and 74:36:11:04.

Also, the State made revisions to previously approved 111(d) plans. Specifically, section 74:36:07:06.01 was updated to incorporate by reference 40 CFR part 60, as of July 1, 1998 and sections 74:36:07:34–42:01 were updated to incorporate by reference 40 CFR part 60, as of July 1, 1999. We are approving these revisions to the 111(d) plans.

We are also approving the removal of chapter 74:36:08 from the SIP and updating the table in 40 CFR 61.04(c)(8) to indicate that the 40 CFR part 61 NESHAPS are now delegated to the State.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. We believe the South Dakota SIP revisions that are the subject of this document will not interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act because the State's revisions are as no less stringent than requirements currently contained in their SIP. Additionally, currently there are no nonattainment areas in South Dakota.

II. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 61

Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

Dated: March 17, 2003.

Kerrigan G. Clough,

Deputy Regional Administrator, Region 8.

■ 40 CFR parts 52 and 61 are 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 QQ—South Dakota

■ 2. Section 52.2170 is amended by adding paragraph (c)(21) to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(21) On May 6, 1999 and June 30, 2000, South Dakota submitted revisions to its Air Pollution Control Program Rules. The sections of the rule being approved replace the same numbered sections that have previously been approved into the SIP. The provisions of section 74:36:07, except 74:36:07:29 and 74:36:07:30, which have previously been incorporated by reference in paragraphs (c)(16)(i)(A) and (c)(18)(i) of this section, are being removed from the South Dakota SIP.

(i) Incorporation by reference.

(A) Sections 74:36:01:01(1) through (79), effective 4/4/1999; 74:36:01:03, effective 4/4/1999; 74:36:01:05, effective 4/4/1999; 74:36:01:07, effective 4/4/1999; 74:36:01:08, effective 4/4/1999; 74:36:01:10, effective 4/4/1999; 74:36:01:17, effective 4/4/1999; 74:36:01:20, effective 4/4/1999; 74:36:02:02, effective 6/27/2000; 74:36:02:03, effective 6/27/2000; 74:36:02:04, effective 6/27/2000; 74:36:02:05, effective 6/27/2000; 74:36:04:03, effective 4/4/1999; 74:36:04:09, effective 4/4/1999; 74:36:04:11, effective 4/4/1999; 74:36:04:12, effective 4/4/1999; 74:36:04:12.01, effective 4/4/1999; 74:36:04:13, effective 4/4/1999; 74:36:01:14, effective 4/4/1999; 74:36:04:18, effective 4/4/1999; 74:36:04:19, effective 4/4/1999; 74:36:04:20, effective 4/4/1999; 74:36:04:20.01, effective 4/4/1999; 74:36:04:20.04, effective 4/4/1999; 74:36:04:22, effective 4/4/1999; 74:36:06:02, effective 4/4/1999; 74:36:06:03, effective 4/4/1999; 74:36:06:07, effective 4/4/1999; 74:36:11:01, effective 6/27/2000; 74:36:12:01, effective 6/27/2000; 74:36:13:02, effective 6/27/2000; 74:36:13:03, effective 6/27/2000; 74:36:13:04, effective 6/27/2000; and 74:36:13:07, effective 6/27/2000.

PART 61—[AMENDED]

■ 1. The authority citation for part 61 continues to read as follows:

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

Subpart A—General Provisions

■ 2. In § 61.04 the table in paragraph (c)(8) is amended by removing the footnote 2 designation from the heading for ''SD''.

[FR Doc. 03–8358 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7477–5]

RIN 2060–AG12

Protection of Stratospheric Ozone: Notice 17 for Significant New Alternatives Policy Program; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability; correction.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of December 20, 2002, a Notice of Acceptability related to the Significant New Alternatives Policy (SNAP) program. Additional, new information was recently made available to EPA and provided updated information related to the calculation of the environmental impact of a fire suppression substitute that was listed as an acceptable substitute in the Notice. Based on this new information, EPA is correcting the atmospheric lifetime and global warming potential (GWP) listed for the substitute fire suppression agent. This correction does not change EPA's finding of acceptability, as set forth in the Notice, for use of the substitute in fire protection. This document identifies and makes the above corrections.

DATES: This corrections is effective on April 7, 2003.

ADDRESSES: Information relevant to this correction notice is contained in Air Docket A–2002–08, 1301 Constitution Avenue, NW.; U.S. Environmental Protection Agency, Mail Code 6102T; Washington, DC, 20460. The docket reading room is located at the address above in room B102 in the basement. Reading room telephone: (202) 566–1744, facsimile: (202) 566–1749; Air docket staff telephone: (202) 566–1742, facsimile: (202) 566–1741. You may inspect the docket between 8:30 a.m. and 4:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Bella Maranion by telephone at (202) 564–9749, by fax at (202) 565–2155, by e-mail at *maranion.bella@epa.gov*, or by mail at U.S. Environmental Protection Agency, Mail Code 6205J, Washington, D.C. 20460. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW., Washington, DC, 20001. Further information can be found by calling the Stratospheric Protection Hotline at (800) 296–1996, or by viewing EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/title6/snap/*.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency published in the **Federal Register** of December 20, 2002 (67 FR 77927), a Notice of Acceptability related to the Significant New Alternatives Policy (SNAP) program. After publication of FR Doc. 02–32130 on December 20, 2002, additional, new information was recently made available to EPA provided updated information related to the calculation of the environmental impact of a fire suppression substitute that was listed as an acceptable substitute in the notice. Based on this new information, EPA is correcting the atmospheric lifetime and global warming potential (GWP) listed for C6-perfluoroketone, a substitute fire suppression agent. EPA's evaluation of this new information is available in EPA air docket A–2002–08 at the address described above under **ADDRESSES.** This correction does not change EPA's finding of acceptability for use of C6-perfluoroketone as a substitute for halon 1301 in total flooding fire suppression applications in both normally occupied and unoccupied areas.

In FR Doc. 02–32130, published on December 20, 2002 (67 FR 77927), under ''Supplementary Information,'' section I ''Listing of Acceptable Substitutes,'' make the following corrections:

1. On p. 77931, in the first full paragraph in the third column, under the heading ''Environmental Information,'' correct the sentence to read ''C6-perfluoroketone has no ozone depletion potential, a global warming potential of between four and seven relative to CO2 over a 100-year time horizon, and an atmospheric lifetime of up to two weeks.''

2. On p. 77932, in the first paragraph of the first column, under the heading ''Comparison to Other Fire Suppressants,'' correct the second sentence to read ''With no ozone-depletion potential, a global warming potential of between four and seven, and an atmospheric lifetime of up to two weeks, C6-perfluoroketone provides an improvement over use of halon 1301, hydrochlorofluorocarbons (HCFCs) and hydrofluorocarbons (HFCs) in fire protection.''

Dated: March 25, 2003.

Drusilla Hufford,

Director, Global Programs Division.

[FR Doc. 03–8367 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7477–7]

RIN 2060–AG12

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances; Correction

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; correction.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of January 27, 2003, a direct final rule related to the Significant New Alternatives Policy (SNAP) program. Additional, new information was recently made available to EPA related to the calculation of the environmental impact of a fire suppression substitute that was listed as an acceptable substitute in the direct final rule. Based on this new information, EPA is correcting the atmospheric lifetime and global warming potential (GWP) listed for the substitute fire suppression agent. This correction does not change EPA's finding of acceptability, as set forth in the rule, for use of the substitute in fire protection. This document identifies and makes the above correction.

DATES: This correction is effective on April 7, 2003.

ADDRESSES: Information relevant to this correction is contained in Air Docket A–2002–08, 1301 Constitution Avenue, NW.; U.S. Environmental Protection Agency, Mail Code 6102T; Washington, DC, 20460. The docket reading room is located at the address above in room B102 in the basement. Reading room telephone: (202) 566–1744, facsimile: (202) 566–1749; Air docket staff telephone: (202) 566–1742, facsimile: (202) 566–1741. You may inspect the docket between 8:30 a.m. and 4:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Bella Maranion by telephone at (202) 564–9479, by fax at (202) 565–2155, by e-mail at *maranion.bella@epa.gov,* or by mail at U.S. Environmental Protection Agency, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, N.W., Washington, D.C., 20001. Further information can be found by calling the Stratospheric Protection Hotline at (800) 296–1996, or by viewing EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/title6/snap/.*

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency published in the **Federal Register** of January 27, 2003, a direct final rule (68 FR 4004) related to the Significant New Alternatives Policy (SNAP) program. After publication of FR Doc. 03–1623 on January 27, 2003, additional, new information was recently made available to EPA and provided updated information related to the calculation of the environmental impact of a fire suppression substitute that was listed as an acceptable substitute in the direct final rule. Based on this new information, EPA is correcting the atmospheric lifetime and global warming potential (GWP) listed for C6-perfluoroketone, a substitute fire suppression agent. EPA's evaluation of this new information is available in EPA air docket A–2002–08 at the address described above under **ADDRESSES.** This correction does not change EPA's finding of acceptability, subject to use conditions, of this substitute for use in fire protection.

In FR Doc.03–1623, published on January 27, 2003 (68 FR 4004), under ''Supplementary Information'', section II, '' Listing of Substitutes'', make the following corrections:

1. On page 4006 in the second full paragraph of the third column, correct the fourth sentence to read, ''C6-perfluoroketone has no ozone-depletion potential, a global warming potential of between four and seven compared to CO_2 on a 100-year time horizon, and an atmospheric lifetime of up to two weeks.''

2. On page 4006 in the third full paragraph of the third column, correct the second sentence to read ''With no ozone-depletion potential, a global warming potential of between four and seven, and an atmospheric lifetime of up to two weeks, C6-perfluoroketone provides an improvement over use of halon 1211, hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs) in fire protection.''

Administrative Requirements

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 procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this correction is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a ''good cause'' finding that this correction is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this correction does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This correction also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant. This rule is not a ''significant energy action'' as defined in Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355 (May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

This correction does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the rule for the Listing of Substitutes for Ozone-Depleting Substances; Final Rule and Proposed Rule.

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of April 7, 2003. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the correction in the **Federal Register**. This correction is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: March 25, 2003.

Drusilla Hufford,

Director, Global Programs Division.

[FR Doc. 03–8365 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101

Federal Property Management Regulations

CFR Correction

In Title 41 of the Code of Federal Regulations, Chapter 101, revised as of July 1, 2002, beginning on page 493, in the Appendix to Subchapter H, remove Temporary Regulations H–29 and H–30.

[FR Doc. 03–55509 Filed 4–4–03; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–826; MM Docket No. 01–159; RM–10164; RM–10395]

Radio Broadcasting Services; Comanche, Mullin and Mason, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a petition for rule making filed at the request of Charles Crawford, proposing the allotment of FM Channel 224A at Comanche, Texas as that community's second local FM transmission service (RM–10164). *See* 66 FR 39473, July 31, 2001. In response to a counterproposal filed by Mullin Broadcasters (RM–10395) this documents allots Channel 224C3 to Mullin, Texas, as that community's first local aural transmission service. Our determination was based on the Commission's allotment priorities (*see Revisions of FM Assignment Policies and Procedures,* 90 FCC 2d 88 (1982)), and is consistent with the Commission's policy to allot the highest class channel requested to a community that complies with the technical requirements of the Rules. Additionally, Channel 259A is allotted to Mason, Texas, as a replacement for vacant Channel 224A to accommodate the Mullin, Texas allotment. Coordinates used for Channel 224C3 at Mullin, Texas, are 31–33–24 NL and 98–39–55 WL. Coordinates used for replacement Channel 259A at Mason, Texas, remain unchanged at 30–45–00 NL and 99–14–00 WL. As Mason is located within 320 kilometers of the U.S.-Mexico border, the Mexican government will be advised of the channel substitution at that community. With this action, this docketed proceeding is terminated.

DATES: Effective May 5, 2003. A filing window for Channel 224C3 at Mullin, Texas, and for Channel 259A at Mason, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–159, adopted March 19, 2003, and released March 21, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 224A and adding Channel 259A at Mason; and by adding Mullin, Channel 224C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8406 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–834; MB Docket No. 02–383, RM–10614]

Radio Broadcasting Services; Buffalo, Oklahoma

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Robert Fabian, allots Channel 224C2 to Buffalo, Oklahoma, as the community's first local aural transmission service. *See* 68 FR 532, January 6, 2003. Channel 224C2 can be allotted to Buffalo, in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 19.8 kilometers (12.3 miles) east of the community. The reference coordinates for Channel 224C2 at Buffalo are 36–50–36 North Latitude and 99–24–30 West Longitude. A filing window for Channel 224C2 at Buffalo, Oklahoma, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be

addressed by the Commission in a subsequent order.

DATES: Effective May 5, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC, 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket Nos. 02–383, adopted March 19, 2003, and released March 21, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Buffalo, Channel 224C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8404 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 021101264–3016–02; I.D. 032503A]

RIN 0648 AQ33

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2003 Atlantic Herring Specifications; Clarification and Correction

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

ACTION: Notification and Clarification of Seasonal Allocation for Area 1A for Atlantic Herring Specifications; correction.

SUMMARY: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, NMFS clarifies the measures in the final rule implementing the final specifications for the 2003 Atlantic herring fishery. In that final rule, NMFS listed the 2003 total allowable catch (TAC) of Atlantic herring for Area 1A. However, the two seasonal TACs for the area were inadvertently omitted. The intent of this notification is to announce the 2003 seasonal allocation of Atlantic herring in Area 1A and correct the Table reflecting the 2003 Atlantic Herring Specifications published in the **Federal Register** on February 6, 2003.

DATES: The Atlantic herring specifications for fishing year 2003 published February 6, 2003 (68 FR 6088) are corrected, effective April 4, 2003, through December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail *paul.h.jones@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Need for Correction/Clarification

Final specifications for the 2003 Atlantic herring fishery were published on February 6, 2003 (68 FR 6088). In the rule, the preamble contained a table showing the Area TACs for the 2003 Atlantic herring fishery. However, the table inadvertently omitted the listing of the Area 1A TAC into two seasonal quotas. The final rule implementing Framework 1 to the Atlantic Herring Fishery Management Plan required annual specification of herring quotas into two seasonal fishing periods for Management Area 1A (January - May, and June - December). In the preamble of both the proposed specifications for the 2003 Atlantic herring fishery, published on November 15, 2002 (67 FR 69181), and the final specifications, the rules stated that there were only two changes from the specifications approved by NMFS for the 2002 fishery: A transfer of 10,000 mt from the Area 2 TAC reserve to the Area 3 TAC, resulting in an Area 3 TAC of 60,000 mt and an Area 2 TAC reserve of 70,000 mt; and a restriction on U.S. at-sea processing vessels to fish in Areas 2 and 3, only. Omitting the two seasonal quotas for Area 1A was not a change from the 2002 specifications.

Accordingly, in rule, FR Doc. 03–2798 published on February 6, 2003, on page 6089, in the first and second columns, the final specifications for the 2003 Atlantic herring fishery are corrected to read as follows, with specific reference to the seasonal quota allocation for Area 1A:

FINAL SPECIFICATIONS AND AREA TACS FOR THE 2003 ATLANTIC HERRING FISHERY

Specification	Final Allocation (mt)
ABC	300,000
OY	250,000
DAH	250,000
DAP	226,000
JVPt	20,000
JVP	10,000 (Area 2 and 3 only)
IWP	10,000
USAP	20,000 (Area 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC–Area 1A	60,000 January 1, 2003–May 31, 2003, landings cannot exceed 6,000
TAC–Area 1B	10,000
TAC–Area 2	50,000 (TAC reserve: 70,000)
TAC–Area 3	60,000

This action is being taken pursuant to 50 CFR 648.200 and 648.202.

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

Dated: April 1, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–8396 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 010918229–3033–02; I.D. 022301A]

RIN 0648–AP15

American Lobster Fishery; Correction

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

ACTION: Correction to the final rule.

SUMMARY: This document contains a correction to the final rule published March 27, 2003, at 68 FR 14902. This rule amends regulations to modify the conservation management measures to the American lobster fisheries.

DATES: This correction is effective April 28, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Ross, NOAA Fisheries, Northeast Region, 978–281–9234.

SUPPLEMENTARY INFORMATION: The final rule published at 68 FR 14902 on March 27, 2003, FR Doc 03–7067 has inadvertently omitted the amendatory language that adds Table 1 to Part 697. This correction, in conforming to the **Federal Register** procedural requirements, adds the missing amendatory instruction 7.

Correction

Accordingly, correct the March 27, 2003, publication by adding amendatory instruction 7 to read as follows:

On page 14902, third column, at the end of text following instruction 6, add the following text: ''7. Add Table 1 to Part 679 to read as follows:''.

Dated: April 1, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–8395 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 66
Monday, April 7, 2003

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 02–112–1]

Tuberculosis in Cattle and Bison; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the bovine tuberculosis regulations by establishing two separate zones with different tuberculosis risk classifications in the State of Michigan and raising the designation of one of those zones from modified accredited to modified accredited advanced. We are proposing this action based on our determination that Michigan meets the requirements for zone recognition and that one of the zones meets the criteria for designation as modified accredited advanced.

DATES: We will consider all comments that we receive on or before June 6, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–112–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–112–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–112–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Joseph VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7716.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of the 20th century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

Federal regulations implementing this program are contained in 9 CFR part 77, ''Tuberculosis'' (referred to below as the regulations), and in the ''Uniform Methods and Rules-Bovine Tuberculosis Eradication'' (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. We propose to amend the regulations to establish two tuberculosis classification zones within Michigan.

Conditions for Zone Recognition

Under §§ 77.3 and 77.4 of the regulations, in order to qualify for zone classification by the Animal and Plant Health Inspection Service (APHIS), the State must meet the following requirements:

1. The State must have adopted and must be enforcing regulations that impose restriction on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place in part 77 for the interstate movement of those animals.
2. The designation of part of a State as a zone must otherwise be adequate to prevent the interstate spread of tuberculosis.
3. The zones must be delineated by the animal health authorities in the State making the request for zone recognition and must be approved by the APHIS Administrator.
4. The request for zone classification must demonstrate that the State has the legal and financial resources to implement and enforce a tuberculosis eradication program and has in place the infrastructure, laws, and regulations to require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife.
5. The request for zone classification must demonstrate that the State maintains, in each intended zone, clinical and epidemiological surveillance of animal species at risk of tuberculosis, at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing.
6. The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

Request for Zone Recognition in Michigan

Currently, the State of Michigan is classified as modified accredited for cattle and bison. However, we have received from the State of Michigan a request for zone recognition in which State animal health officials demonstrate that Michigan meets the requirements listed above for the requested zone recognition. Therefore, we propose to recognize two zones in Michigan as follows:

- The smaller of the two zones would consist of Alcona, Alpena, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle

Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

- The second zone in Michigan would consist of the remainder of the State.

The criteria for modified accredited advanced status are set forth in the definition of *Modified accredited advanced State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone. State animal health officials in Michigan have demonstrated to APHIS that, except for the smaller zone, Michigan now meets these criteria.

The criteria for modified accredited status are set forth in the definition of *Modified accredited State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures. State animal health officials in Michigan have demonstrated to APHIS that the smaller zone meets these criteria.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses of meat and milk production among infected animals. As part of the Cooperative State/Federal Tuberculosis Eradication Program, which has virtually eliminated bovine tuberculosis from the Nation's livestock populations, the regulations classify each State according to its tuberculosis risk and place certain restrictions on the movement of cattle and bison from States with high-risk classifications.

Currently, the State of Michigan is classified as modified accredited for cattle and bison. We propose to amend the regulations to establish two classification zones within Michigan. Alcona, Alpena, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest would be classified as modified accredited. The designation of the remaining counties in the State would be raised from modified accredited to modified accredited advanced. We discuss below the projected effects of the proposed action.

As of January 2002, there were approximately 15,500 cattle operations in Michigan, totaling 990,000 head of cattle. According to the National Agricultural Statistics Service, the reported total cash value of cattle in Michigan is $900.9 million as of that year. Over 98 percent of Michigan's cattle operations yield less than $750,000 in yearly revenues and are therefore considered small entities under criteria established by the Small Business Administration.

For those counties or portions of counties in the smaller zone that would remain under modified accredited status, there would be no change in production costs. These 11 counties contribute approximately 63,100 head of cattle to the statewide total, representing only 6.4 percent of total cattle production in Michigan. The counties or portions of counties in the larger zone that would be raised from modified accredited status to modified accredited advanced status would experience fewer interstate movement restrictions associated with pre-movement testing requirements. Decreased tuberculin testing would result in decreased production costs for the affected producers, thus providing the monetary benefit described below.

The approximate per head tuberculin testing cost is $6.33, based on an average Michigan herd consisting of 60 animals. This is compared to an average sale value of approximately $910 per head. Thus, savings resulting from reduced testing represent less than 1 percent of the per-head value. This benefit is relatively small when compared to the total size and significance of the cattle and bison industry in Michigan and the United States overall.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, we propose to amend 9 CFR part 77 as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

2. In § 77.9, paragraph (b) would be revised to read as follows:

§ 77.9 Modified accredited advanced States or zones.

* * * * *

(b) The following are modified accredited advanced zones: All of the State of Michigan except for the zone that comprises those counties or portions of counties in Michigan described in § 77.11(b).

* * * * *

3. In § 77.11, paragraphs (a) and (b) would be revised to read as follows:

§ 77.11 Modified accredited States or zones.

(a) The following are modified accredited States: None.

(b) The following are modified accredited zones: A zone in Michigan that comprises Alcona, Alpena, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

* * * * *

Done in Washington, DC, this 1st day of April, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–8332 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–53–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 155B, SA–365N and N1, AS–365N2, and AS 365 N3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 155B, SA–365N and N1, AS–365N2, and AS 365 N3 helicopters with emergency flotation gear installed. This proposal would require inspecting the hydraulic brake hose (hose) for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose, if necessary. This proposal would also require inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary. This proposal is prompted by a report of a hose compression due to interference with a clamp that attaches the emergency flotation gear pipe. The actions specified by this proposed AD are intended to prevent failure of the hose, resulting in failure of hydraulic pressure to the brakes on the affected landing gear wheel and subsequent loss of control of the helicopter during a run-on landing.

DATES: Comments must be received on or before June 6, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–53–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2002–SW–53–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 155 B, AS 365 N, N1, N2, and N3 helicopters. The DGAC advises of receiving a report of a hose compression due to interference with a clamp that attaches the emergency flotation gear pipe.

Eurocopter has issued Alert Telex No. 32.00.09, for Model AS 365N, N1, N2, and N3 helicopters, and Alert Telex No. 32A004, for Model EC 155B helicopters, both dated July 31, 2002. These alert telexes specify checks of the condition of the hose, as well as ensuring that there is no interference between the hose and the emergency flotation gear pipe when the landing gear is retracted. The DGAC classified these alert telexes as mandatory and issued AD No. 2002–475–007(A) for Model EC 155 B helicopters, and AD No. 2002–474–058(A), for Model AS 365 N, N1, N2, and N3 helicopters, both dated September 18, 2002, to ensure the continued airworthiness of these helicopters in France.

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

This unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require, within the next 10 hours time-in-service (TIS), inspecting the hose for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose before further flight, if necessary. The proposed AD would also require, at the next 100-hour TIS inspection, inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary. The actions would be required to be accomplished in accordance with the alert telexes described previously.

The FAA estimates that 44 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per helicopter to accomplish the inspection and 5 work hours to replace any parts, as necessary, and that the average labor rate is $60 per work hour. Required parts would cost approximately $459 for the hose; if replacing the hose on two sides is required, the cost would be approximately $918. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,518 per helicopter, or $50,094 for the entire fleet, assuming 75 percent of the fleet (33 helicopters) is equipped with emergency flotation gear and the hoses are replaced on all 33 helicopters.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of

power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2002–SW–53–AD.

Applicability: Model EC 155B, SA–365N and N1, AS–365N2, and AS 365 N3 helicopters, with emergency flotation gear installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the hose, resulting in failure of hydraulic pressure to the brakes on the affected landing gear wheel and subsequent loss of control of the helicopter during a run-on landing, accomplish the following:

(a) Within 10 hours time-in-service (TIS), inspect the hose for crazing, pinching, distortion, or leaks as illustrated in Area A of Figure 1 of Eurocopter Alert Telex No. 32.00.09, for Model SA–365N and N1, AS–365N2, and AS 365 N3 helicopters, and Alert Telex No. 32A004, for Model EC 155B helicopters, both dated July 31, 2002 (Alert Telexes).

(b) If crazing, pinching, distortion, or leaks exist, replace the hose with an airworthy hose before further flight.

(c) At the next 100-hour TIS inspection, inspect the hose and the emergency flotation gear pipe to ensure adequate clearance and adjust the landing gear leg, if necessary, in accordance with the Operational Procedure, paragraph 2.B.2., of the applicable Alert Telexes.

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

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

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2002–475–007(A) and AD No. 2002–474–058(A), both dated September 18, 2002.

Issued in Fort Worth, Texas, on March 31, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–8329 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), that is applicable to Pratt and Whitney (PW) model 4000 series turbofan engines. That AD currently requires interim actions to address engine takeoff power loss events until the high-pressure-compressor (HPC) case is redesigned and available for incorporation on the PW4000 engines. This proposal would require the same actions as that AD, adds on-wing Testing-21 to Boeing 747 and MD–11 airplanes, and adds the requirement to install a new Ring Case Configuration (RCC) rear HPC on engines installed in the Boeing fleet. This proposal is prompted by the development of an RCC rear HPC for PW4000 series turbofan engines installed in the Boeing fleet. The actions specified in the proposed AD are intended to prevent engine takeoff power losses due to HPC surge.

DATES: Comments must be received by May 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108, telephone (860) 565–6600; fax (860) 565–4503. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On October 11, 2002, the FAA issued AD 2002–21–10, Amendment 39–12916 (67 FR 65484, October 25, 2002), that:

- Establishes a minimum rebuild standard for engines and requires operators to remove PW4000 engines with cutback stators from service,
- Limits the number of PW4000 engines with potentially reduced stability margin to no more than one engine on each airplane,
- Removes engines from service using engine stagger limit criteria,
- Returns engines to service after having exceeded HPC cyclic limits or after shop maintenance by either passing engine fuel spike stability tests or overhauling the HPC,
- Performs repetitive test cell engine fuel spike stability tests at certain cycle intervals,
- Establishes a rules based criterion to determine the engine category on Airbus airplanes,
- Establishes criteria to allow engine stagger without Testing-21 for engines over their respective limits,
- Establishes criteria which may require Testing-21 on engines that have complied with Boeing/McDonnell Douglas/Airbus Fan Thrust Deterioration Mode (FTDM) ADs,
- Reestablishes the HPT/HPC cyclic mismatch criteria, and
- Adds criteria to address engine installation changes, aircraft transfers, and thrust rating changes.

That action was prompted by investigation and evaluation of PW4000 series turbofan engines surge data, and continuing reports of surges in the PW4000 fleet. That condition, if not corrected, could result in engine takeoff power losses due to HPC surge.

Since that AD was issued, PW issued service bulletin PW4ENG 72–755, dated February 28, 2003, that introduces a new RCC rear HPC for engines installed on Boeing airplanes.

Although the RCC rear HPC has been certified to 14 CFR part 33 and 14 CFR part 25 on Boeing airplanes, it has not completed certification to 14 CFR part 25 on Airbus and McDonnell Douglas airplanes.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of the following PW service information:

- Service Bulletin PW (SB) PW4ENG 72–755, dated February 28, 2003
- Internal Engineering Notice (IEN) 02KCW13, dated October 14, 2002
- IEN 02KCW13A, dated October 14, 2002
- IEN 02KCW13C, dated July 25, 2002
- IEN 02KCW13D, dated July 29, 2002
- IEN 02KCW13E, dated November 21, 2002
- IEN 02KCW13F, dated October 14, 2002
- IEN 02KCW13H, dated December 9, 2002
- SB PW4ENG72–714, Revision 1, dated November 8, 2001
- SB PW4ENG72–749, dated June 17, 2002
- IEN 96KC973D, dated October 12, 2001
- Temporary Revision (TR) TR 71–0018, dated November 14, 2001
- TR 71–0026, dated November 14, 2001
- TR 71–0035, dated November 14, 2001
- Cleaning, Inspection, and Repair (CIR) procedure CIR 51A357, Section 72–35–68, Inspection/Check-04, Indexes 8–11, dated September 15, 2001
- CIR 51A357, Section 72–35–68, Repair 16, dated June 15, 1996
- PW4000 PW engine manual (EM) 50A443, 71–00–00, TESTING–21, dated March 15, 2002
- PW4000 PW EM 50A822, 71–00–00, TESTING–21, dated March 15, 2002
- PW4000 PW EM 50A605, 71–00–00, TESTING–21, dated March 15, 2002

Additional Service Information

The FAA has reviewed and approved the technical contents of Chromalloy Florida Repair Procedures, 00 CFL–039–0, dated December 27, 2000 and 02 CFL–024–0, dated September 15, 2002.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW4000 series turbofan engines of this same type design, the proposed AD would supersede AD 2002–21–10 to require the same actions as that AD, adds on-wing Testing-21 to Boeing 747 and MD11 airplanes, and adds the requirement to install a new RCC rear HPC on engines installed in the Boeing fleet as follows:

- For engines installed on Boeing 767 airplanes, by May 31, 2006 and thereafter, ensure that at least one Configuration I engine is installed on the airplane. After May 31, 2006, the non-Configuration I engine installed on the airplane must have incorporated the Haynes material in the HPC inner case rear hook.
- For engines installed on Boeing 747 airplanes, by January 31, 2007 and thereafter, ensure that no more than one non-Configuration I engine is installed on the airplane. After January 31, 2007, the non-Configuration I engine installed on the airplane must have incorporated the Haynes material in the HPC inner case rear hook.
- Prior to June 30, 2009 or whenever the HPC module is disassembled to a level that separates the HPC rear case assembly at H flange from the HPC module, whichever occurs first, incorporate the RCC rear HPC. Engines incorporating the RCC rear HPC are Configuration I engines.

The actions are required to be done in accordance with the service information described previously and have been coordinated with the Transport Airplane Directorate.

Economic Analysis

There are approximately 2,300 engines of the affected design in the worldwide fleet. The FAA estimates that 550 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 183 work hours per engine to perform the

proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $119,500 per engine. Based on these figures, the total average annual cost of the proposed AD to U.S. operators is estimated to be $11,953,800.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12916, (67 FR 65484, October 25, 2002, and by adding a new airworthiness directive:

Pratt & Whitney: Docket No. 2000–NE–47–AD. Supersedes AD 2002–21–10, Amendment 39–12916.

Applicability: This airworthiness directive (AD) is applicable to Pratt and Whitney (PW) model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines. These engines are installed on, but not limited to, certain models of Airbus Industrie A300, Airbus Industrie A310, Boeing 747, Boeing 767, and McDonnell Douglas MD–11 series airplanes.

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

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

To prevent engine takeoff power losses due to high-pressure-compressor (HPC) surges, do the following:

(a) When complying with this AD, determine the configuration of each engine on each airplane using the following Table 1:

TABLE 1.—ENGINE CONFIGURATION LISTING

Configuration	Configuration description	Designator
(1) Phase 1 without high pressure turbine (HPT) 1st turbine vane cut back stator (1TVCB).	A	Engines that did not incorporate the Phase 3 configuration at the time they were originally manufactured, or have not been converted to Phase 3 configuration; and have not incorporated HPT 1TVCB using any revision of service bulletin (SB) PW4ENG 72–514.
(2) Phase 1 with 1TVCB	B	Same as Configuration A except that HPT 1TVCB has been incorporated using any revision of SB PW4ENG 72–514.
(3) Phase 3, 2nd Run	C	Engines that incorporated the Phase 3 configuration at the time they were originally manufactured, or have been converted to the Phase 3 configuration during service; and that have had at least one HPC overhaul since new.
(4) Phase 3, 1st Run	D	Same as Configuration C except that the engine has not had an HPC overhaul since new, except those engines that are defined as Configuration Designator G.
(5) HPC Cutback Stator Configuration Engines	E	Engines that currently incorporate any revision of SBs PW4ENG72–706, PW4ENG72–704, or PW4ENG72–711.
(6) Engines that have passed Testing—21	F	Engines which have successfully passed Testing—21 performed in accordance with paragraph (i) or (j) of this AD. Once an engine has passed a Testing-21, it will remain a Configuration F engine until the HPC is overhauled, or is replaced with a new or overhauled HPC.
(7) Phase 3, 1st Run Subpopulation Engines. These engines are identified by model and serial numbers (SNs) as follows: PW4152: SN 724942 through SN 724944 inclusive; PW4158: SN 728518 through SN 728533 inclusive; PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062: SN 727732 through SN 728000 inclusive and SN 729010 inclusive; PW4460, PW4462: SN 733813 through SN 733840 inclusive	G	Engines that incorporated the Phase 3 configuration at the time they were originally manufactured, that were built from August 29, 1997 up to the incorporation of the HPC inner rear case with the Haynes material rear hook at the original engine manufacturer and have not had an HPC overhaul since new.

TABLE 1.—ENGINE CONFIGURATION LISTING—Continued

Configuration	Configuration description	Designator
(8) Engines from Configuration G that have have passed Testing-21.	H	Engines that have successfully passed Testing-21 performed in accordance with paragraph (i) or (j) of this AD. Once an engine has passed a Testing-21, it will remain a Configuration H engine until the HPC is overhauled, or is replaced with a new or overhauled HPC.
(9) Engines installed on Boeing airplanes with a build standard that incorporates a ring case configuration (RCC) rear HPC.	I	Engines that have incorporated PW SB PW4ENG 72–55, dated February 28, 2003, or have been manufactured with an RCC rear HPC.

Configuration E Engines Installed on Boeing 747, 767, and MD–11 Airplanes

(b) For Configuration E engines, do the following:

(1) Before further flight, limit the number of engines with Configuration E as described in Table 1 of this AD, to one on each airplane.

(2) Remove all engines with Configuration E from service before accumulating 1,300 cycles-since-new (CSN) or cycles-since-conversion (CSC) to Configuration E, whichever is later.

Configuration G and H Engines Installed on Boeing 747, 767, MD–11, and Airbus A300 and A310 Airplanes

(c) For Configuration G and H engines installed on Boeing 747, 767, MD–11, and Airbus A300 and A310 airplanes, except as provided in paragraph (b) of this AD:

(1) Before further flight, remove from service engines that exceed the CSN limits listed in the following Table 2. Thereafter, ensure that no Configuration G or H engines exceed the HPC CSN limits listed in Table 2 of this AD.

TABLE 2.— CONFIGURATION G AND H LIMITS

Configuration designator	B747 PW4056	B767 PW4052	B767 PW4056	B767 PW4060 PW4060A PW4060C W4062	MD–11 PW4460 PW4462	A300/310 PW4152 PW4156A PW4158
G	1,700 CSN	3,000 CSN	2,100 CSN	1,350 CSN	1,150 CSN	2,800 CSN
H	600 cycles-since-passing Testing-21 (CST)	600 CST	600 CST	600 CST	600 CST	600 CST

(2) Prior to return to service and installed on Boeing 747 and 767 airplanes, Configuration G and H engines must meet the requirements of paragraph (j) of this AD.

(3) Prior to return to service and installed on Airbus or McDonnell Douglas airplanes, Configuration G or H engines must meet the requirements of paragraph (i) of this AD.

Engines Installed on Boeing 767 and MD–11 Airplanes

(d) For engines installed on Boeing 767 and MD–11 airplanes, except as provided in paragraph (b) and (c) of this AD:

(1) Before further flight, limit the number of engines that exceed the HPC CSN, HPC cycles-since-overhaul (CSO), or HPC CST limits in Table 3 of this AD, to no more than one engine per airplane. Thereafter, ensure that no more than one engine per airplane exceeds the HPC CSN, CSO, or CST limit in Table 3 of this AD.

(2) Prior to return to service and installed on MD11 airplanes, engines must meet the requirements of paragraph (i) of this AD.

(3) Prior to return to service and installed on Boeing 767 airplanes, engines must meet the requirements of paragraph (j) of this AD.

Engines Installed on Boeing 747 Airplanes

(e) Except as provided in paragraph (b) and (c) of this AD, before further flight, and thereafter, manage the engine configurations installed on Boeing 747 airplanes as follows:

(1) Limit the number of Configuration A, B, C, or E engines that exceed the HPC CSN or HPC CSO limits listed in Table 3 of this AD, to not more than one engine per airplane. Table 3 follows:

TABLE 3.—ENGINE LIMITS FOR BOEING AIRPLANES

Configuration designator	B747–PW4056	B767–PW4052	B767–PW4056	B767–PW4060 PW4060A PW4060C PW4062	MD–11 PW4460 PW4462
A	1,400 CSN or CSO	3,000 CSN or CSO	1,600 CSN or CSO	900 CSN or CSO	800 CSN or CSO.
B	2,100 CSN or CSO	4,400 CSN or CSO	2,800 CSN or CSO	2,000 CSN or CSO	1,200 CSN or CSO.
C	2,100 CSO	4,400 CSO	2,800 CSO	2,000 CSO	1,300 CSO.
D	2,600 CSN	4,400 CSN	3,000 CSN	2,200 CSN	2,000 CSN.
E	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO.
F	800 CST	800 CST	800 CST	800 CST	800 CST.

(2) The single Configuration A, B, C, or E engine per airplane that exceeds the HPC CSN or CSO limits listed in Table 3 of this AD, must be limited to 2,600 HPC CSN or CSO for Configuration A, B, or C engines, or 1,300 HPC CSN or CSC to Configuration E, whichever is later, for Configuration E engines.

(3) Remove from service Configuration D engines before accumulating 2,600 CSN.

(4) Remove from service Configuration F engines before accumulating 800 CST.

(5) Prior to return to service and installed on Boeing airplanes, Configuration A, B, C, D, and F engines must meet the requirements of paragraph (j) of this AD.

Engines Installed on Airbus A300 and A310 Airplanes

(f) Use paragraphs (f)(1) through (f)(9) to determine which Airbus A300 PW4158 engine category 1, 2, or 3 limits of the following Table 4 of this AD apply to your engine fleet:

TABLE 4.—ENGINE LIMITS FOR AIRBUS AIRPLANES

Configuration designator	A300 PW4158 category 1, and A310 PW4156 and PW4156A	A300 PW4158 category 2, and A310 PW4152	A300 PW4158 category 3
A	900 CSN or CSO	1,850 CSN or CSO	500 CSN or CSO.
B	2,200 CSN or CSO	4,400 CSN or CSO	1,600 CSN or CSO.
C	2,200 CSO	4,400 CSO	1,600 CSO.
D	4,400 CSN	4,400 CSN	4,400 CSN.
E	Not Applicable	Not Applicable	Not Applicable.
F	800 CST	800 CST	800 CST.

(1) Determine the number of Group 3 takeoff surges experienced by engines in your fleet before April 13, 2001. Count surge events for engines that had an HPC overhaul and incorporated either SB PW 4ENG 72–484 or SB PW4ENG 72–575 at the time of overhaul. Do not count surge events for engines that did not have the HPC overhauled (*i.e.* 1st run engine) or had the HPC overhauled but did not incorporate either SB PW4ENG 72–484 or SB PW4ENG 72–575. See paragraph (v)(5) of this AD for a definition of a Group 3 takeoff surge.

(2) Determine the number of cumulative HPC CSO accrued by engines in your fleet before April 13, 2001. Count HPC CSO for engines that had an HPC overhaul and incorporated either SB PW4ENG 72–484 or SB PW4ENG 72–575 at the time of overhaul. Do not count HPC CSO accrued on your engines while operating outside your fleet.

(3) Calculate the surge rate by dividing the number of Group 3 takeoff surges determined in paragraph (f)(1) of this AD, by the number of cumulative HPC CSO determined in paragraph (f)(2) of this AD, and then multiply by 1,000.

(4) If the surge rate calculated in paragraph (f)(3) of this AD is less than 0.005, go to paragraph (f)(5) of this AD. If the surge rate calculated in paragraph (f)(3) of this AD is greater than or equal to 0.005, go to paragraph (f)(6) of this AD.

(5) If the cumulative HPC CSO determined in paragraph (f)(2) of this AD is greater than or equal to 200,000 cycles, use A300 PW4158 Category 2 limits of Table 4 of this AD. If less than 200,000 cycles, go to paragraph (f)(7) of this AD.

(6) If the surge rate calculated in paragraph (f)(3) of this AD is greater than 0.035, use A300 PW 4158 Category 3 limits of Table 4 of this AD. If less than or equal to 0.035, go to paragraph (f)(7) of this AD.

(7) Determine the percent of takeoffs with greater than a 1.45 Takeoff engine pressure ratio (EPR) data for engines operating in your fleet. Count takeoffs from a random sample of at least 700 airplane takeoffs that has occurred over at least a 3-month time period, for a period beginning no earlier than 23 months prior to the effective date of this AD. See paragraph (v)(6) of this AD for definition of Takeoff EPR data.

(8) If there is insufficient data to satisfy the criteria of paragraph (f)(7) of this AD, use A300 PW4158 Category 3 limits of Table 4 of this AD.

(9) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (f)(7) of this AD is greater than 31%, use A300 PW 4158 Category 3 limits listed in Table 4 of this AD. If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (f)(7) of this AD is less than or equal to 31%, use A300 PW 4158 Category 1 limits listed in Table 4 of this AD.

(g) For engines installed on Airbus A300 or A310 airplanes, except as provided in paragraph (c) of this AD, before further flight, limit the number of engines that exceed the CSN, CSO, or CST limits listed in Table 4 of this AD, to no more than one engine per airplane. Thereafter, ensure that no more than one engine per airplane exceeds the HPC CSN, CSO, or CST limits listed in Table 4 of this AD. See paragraph (i) of this AD for return to service requirements.

(h) For Airbus A300 PW4158 engine operators, except those operators whose engine fleets are determined to be Category 3 classification based on surge rate in accordance with paragraph (f)(6) of this AD, re-evaluate your fleet category within 6 months from the last evaluation, and thereafter, at intervals not to exceed 6 months, using the following criteria:

(1) For operators whose engine fleets are initially classified as Category 1 or 3 in accordance with paragraph (f) of this AD, determine the percent of takeoffs with greater than a 1.45 Takeoff EPR data for engines operating in your fleet. Count takeoffs from a sample of at least 200 takeoffs that occurred over the most recent six month time period since the last categorization was determined, or the total number of takeoffs accumulated over 6 months if less than 200 takeoffs. See paragraph (v)(6) of this AD for definition of takeoff EPR data.

(i) If there is insufficient data to satisfy the criteria of paragraph (h)(1) of this AD, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(ii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(1) of this AD is greater than 31%, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(iii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(1) of this AD is less than or equal to 31%, use A300 PW4158 Category 1 limits listed in Table 4 of this AD.

(2) For operators whose engine fleets are initially classified as Category 2 in accordance with paragraph (f) of this AD, determine the percent of takeoffs with greater than a 1.45 Takeoff EPR data for engines operating in your fleet. Count takeoffs from a sample of at least 200 takeoffs that occurred over the most recent six month time period since the last categorization was determined, or the total number of takeoffs accumulated over 6 months if less than 200 takeoffs. See paragraph (v)(6) of this AD for definition of takeoff EPR data.

(i) If there is insufficient data to satisfy the criteria of paragraph (h)(2) of this AD, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(ii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is greater than 37%, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(iii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is greater than or equal to 21% and less than or equal to 37%, use A300 PW4158 Category 1 limits listed in Table 4 of this AD.

(iv) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is less than 21%, use A300 PW4158 Category 2 limits listed in Table 4 of this AD.

Return to Service Requirements for Engines To Be Installed on Airbus or McDonnell Douglas Airplanes

(i) Engines removed from service in accordance with paragraph (c), (d), or (g) of this AD may be returned to service and installed on Airbus or McDonnell Douglas airplanes under the following conditions:

(1) After passing a cool-engine fuel spike stability test (Testing-21) that has been done in accordance with one of the following PW4000 Engine Manuals (EM) as applicable, except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge:

(i) PW4000 EM 50A443, 71–00–00, TESTING–21, dated March 15, 2002.

(ii) PW4000 EM 50A822, 71–00–00, TESTING–21, dated March 15, 2002.

(2) Engines tested before the effective date of this AD, in accordance with PW4000 EM 50A443, Temporary Revision No. 71–0026, dated November 14, 2001; or PW4000 EM 50A822, Temporary Revision No. 71–0018, dated November 14, 2001; or PW Internal Engineering Notice (IEN) 96KC973D, dated October 12, 2001, meet the requirements of Testing-21; or

(3) After passing an on-wing Testing-21 on PW4460 and PW4462 engines installed on the MD–11 airplanes that has been done in accordance with Major IEN 02KCW13H, dated December 9, 2002 or done prior to the approval of Major IEN 02KCW13H, dated December 9, 2002 in accordance with Minor IEN 02KCW13F, dated October 14, 2002 except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(4) The engine HPC was replaced with an HPC that is new from production with no time in service; or

(5) The engine HPC has been overhauled, or the engine HPC replaced with an overhauled HPC with zero cycles since overhaul; or

(6) An engine that is either below or exceeds the limits of Table 3 or Table 4 of this AD may be removed and installed on another airplane without Testing-21, as long as the requirements of paragraph (c), (d), or (g) of this AD are met at the time of engine installation.

Return to Service Requirements for Engines To Be Installed on Boeing 747 or 767 Airplanes

(j) Engines removed from service in accordance with paragraph (c), (d), or (e) of this AD may be returned to service and installed on Boeing airplanes under the following conditions:

(1) After passing a cool-engine fuel spike stability test (Testing-21) that has been done in accordance with PW4000 EM 50A605, 71–00–00, Testing-21, dated March 15, 2002, except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(2) Engines tested before the effective date of this AD, in accordance with PW IEN 96KC973D, dated October 12, 2001, or PW4000 EM 50A605, Temporary Revision No. 71–0035, dated November 14, 2001 meet the requirements of Testing-21; or

(3) For PW4056 engines installed on Boeing 747 airplane, after successfully completing on-wing Testing-21 in accordance with Major IEN 02KCW13E, dated November 21, 2002 or if done prior to the approval of Major IEN 02KCW13E dated November 21, 2002 in accordance with Minor IEN's 02KCW13, dated October 14, 2002, 02KCW13A, dated October 14, 2002, 02KCW13C, dated July 25, 2002, or 02KCW13D, July 29, 2002 except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(4) An engine that is either below or exceeds the limits of Table 3 or Table 4 of this AD may be removed and installed on another airplane without Testing-21, as long as the requirements of paragraph (c), (d), or (e) of this AD are met at the time of engine installation.

(5) Engine has incorporated the RCC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003. Completing this SB changes the engine configuration to Configuration I.

Phase 0 or Phase 1, FB2T or FB2B Fan Blade Configurations

(k) For Configuration A, B, C, D, E, F, G, and H engines with Phase 0 or Phase 1, FB2T or FB2B fan blade configurations complying with the requirements of AD 2001–09–05, (66 FR 22908, May 5, 2001), AD 2001–09–10, (66 FR 21853, May 2, 2001), or AD 2001–01–10, (66 FR 6449, January 22, 2001), do the following:

(1) Operators complying with the ADs listed in paragraph (k) of this AD using the weight restriction compliance method, must perform Testing-21 in accordance with paragraph (i) or (j) of this AD whenever any quantity of fan blades are replaced with new fan blades, overhauled fan blades, or with fan blades having the leading edges recontoured after the effective date of this AD, if during the shop visit the HPC is not overhauled and separation of a major engine flange, located between ''A'' flange and ''T'' flange, does not occur.

(2) If an operator changes from the weight restriction compliance method to the fan blade leading edge recontouring method after the effective date of this AD, testing-21 in accordance with paragraph (i) or (j) of this AD is required each time fan blade leading edge recontouring is done, if the fan blades accumulate more than 450 cycles since new or since fan blade overhaul, or since the last time the fan blade leading edges were recontoured.

Minimum Build Standard For Engines Installed on Airbus and McDonnell Douglas Airplanes

(l) Use the following minimum build standards for engines to be returned to service and installed on Airbus and McDonnell Douglas airplanes:

(1) After the effective date of this AD, do not install an engine with HPC and HPT modules where the CSO of the HPC is 1,500 cycles or greater than the CSN or CSO of the HPT.

(2) For any engine that undergoes an HPC overhaul after the effective date of this AD:

(i) Inspect the HPC mid hook and rear hook of the HPC inner case for wear in accordance with PW Clean, Inspect and Repair (CIR) Manual PN 51A357, Section 72–35–68 Inspection/Check-04, Indexes 8–11, dated March 15, 2002 or September 15, 2001. If the HPC rear hook is worn beyond serviceable limits, replace the HPC inner case rear hook with an improved durability hook in accordance with PW SB PW4ENG 72–714, Revision 1, dated November 8, 2001, or Chromalloy Florida Repair Procedure 00 CFL–039–0, dated December 27, 2000. If the HPC inner case mid hook is worn beyond serviceable limits, repair the HPC inner case mid hook in accordance with PW CIR PN 51A357 Section 72–35–68, Repair-16, dated June 15, 1996, or in accordance with PW SB PW4ENG 72–749, dated June 17, 2002, or Chromalloy Florida Repair Procedure 02 CFL–024–0, dated September 15, 2002.

(ii) After the effective date of this AD, any engine that undergoes an HPC overhaul may not be returned to service unless it meets the build standard of PW SB PW4ENG 72–484, PW4ENG 72–486, PW4ENG 72–514, and PW4ENG 72–575. Engines that incorporate the Phase 3 configuration already meet the build standard defined by PW SB PW4ENG 72–514.

(3) After the effective date of this AD, any engine that undergoes separation of the HPC and HPT modules must not be installed on an airplane unless it meets the build standard of PW SB PW4ENG 72–514. Engines that incorporate the Phase 3 configuration already meet the build standard defined by PW SB PW4ENG 72–514.

Minimum Build Standard for Engines Installed on Boeing 747 and 767 Airplanes

(m) For engines to be returned to service and installed on Boeing 747 and 767 airplanes, after the effective date of this AD, any HPC module that is disassembled to a level that separates the HPC rear case assembly at H flange from the HPC module may not be returned to service unless the RCC rear HPC is incorporated in accordance with PW SB PW4ENG 72–755, dated February 28, 2003.

Stability Testing Requirements for Engines to be Installed on Airbus or McDonnell Douglas Airplanes

(n) For engines to be installed on Airbus or McDonnell Douglas airplanes, after the effective date of this AD, Testing-21 must be performed in accordance with paragraph (i) of this AD, before an engine can be returned to service after having undergone maintenance in the shop, except under any of the following conditions:

(1) The engine HPC was overhauled, or replaced with an overhauled HPC with zero cycles since overhaul; or the engine HPC was replaced with an HPC that is new from production with no time in service.

(2) The shop visit did not result in the separation of a major engine flange located between ''A'' flange and ''T'' flange; or

(3) Engines with an HPC having zero CSN or CSO, or engines that successfully passed Testing-21 with zero CST; and are split at Flange E for transportation reasons as specified in the applicable Storage/Transport section of the applicable Engine Manual.

Stability Testing Requirements for Engines to be Installed on Boeing 747 or 767 Airplanes

(o) For engines to be installed on Boeing 747 or 767 airplanes, after the effective date of this AD, Testing-21 must be performed in accordance with paragraph (j) of this AD, before an engine can be returned to service after having undergone maintenance in the

shop, except under any of the following conditions:

(1) Engine HPC has incorporated the RCC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003. Completing this SB changes the engine configuration to Configuration I.

(2) The shop visit did not result in the separation of a major engine flange located between ''A'' flange and ''T'' flange; or

(3) Engines that successfully passed Testing-21 with zero CST, and are split at Flange E for transportation reasons as specified in the applicable Storage/Transport section of the applicable EM.

Thrust Rating Changes, Installation Changes, and Engine Transfers

(p) When a thrust rating change has been made by using the Electronic Engine Control (EEC) programming plug, or an installation change has been made during an HPC overhaul, use the lowest cyclic limit of Table 3 or Table 4 of this AD, associated with any engine thrust rating change or with any installation change made during this period. See paragraph (v)(2) for definition of HPC overhaul period.

(q) When a PW4158 engine is transferred to another PW4158 engine operator whose engine fleet has a different category, use the lowest cyclic limit in Table 4 of this AD that was used or will be used during the affected HPC overhaul period.

(r) When a PW4158 engine operator whose engine fleet changes category in accordance with paragraph (h) of this AD, use the lowest cyclic limits in Table 4 of this AD that were used or will be used during the affected HPC overhaul period.

(s) Engines with an HPC having zero CSN or CSO at the time of thrust rating change, or installation change, or engine transfer between PW4158 engine operators, or subsequent change in operator engine fleet category in accordance with paragraph (h) of this AD in the direction of lower to higher Table 4 limits, are exempt from the lowest cyclic limit requirement in paragraphs (p), (q), and (r) of this AD.

Engines That Surge

(t) For engines that experience a surge, and after troubleshooting procedures are completed for airplane-level surge during forward or reverse thrust, do the following:

(1) For engines that experience a Group 3 takeoff surge, remove the engine from service before further flight and for engines that will be installed on Airbus or McDonnell Douglas airplanes, perform an HPC overhaul; or for engines that will be installed on Boeing airplanes, incorporate the RRC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003.

(2) For any engine that experiences a forward or reverse thrust surge at EPR's greater than 1.25 that is not a Group 3 takeoff surge, do the following:

(i) For Configuration A, B, C, D, F, G, and H engines, remove engine from service within 25 CIS or before further flight if airplane-level troubleshooting procedures require immediate engine removal, and perform Testing-21 in accordance with paragraph (i) or (j) of this AD, as applicable.

(ii) For Configuration E engines, remove engine from service within 25 CIS or before further flight if airplane-level troubleshooting procedures require immediate engine removal.

(3) Paragraphs (t)(1) and (t)(2) are not applicable to engines that incorporate the RCC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003.

Terminating Action for Boeing Airplanes

(u) For Boeing operators with PW4000 engines installed on Boeing 747 or Boeing 767 airplanes, modify the engine HPC assembly by incorporating the RCC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003 as follows:

(1) For engines installed on Boeing 767 airplanes, manage the engine configuration installed on the airplanes in your fleet as follows:

(i) By May 31, 2006 and thereafter, ensure that at least one Configuration I engine is installed on the airplane.

(ii) After May 31, 2006, the non-Configuration I engine installed on the airplane must have incorporated the Haynes material in the HPC inner case rear hook during the original engine build or during an HPC overhaul in accordance with PW4ENG 72–714, dated June 27, 2000 or Revision 1, dated November 8, 2001, or Chromalloy Florida Repair procedure 00CFL–039–0, dated December 27, 2000.

(2) For engines installed on Boeing 747 airplanes, manage the engine configuration installed on the airplanes in your fleet as follows:

(i) By January 31, 2007 and thereafter, ensure that no more than one non-Configuration I engine is installed on the airplane.

(ii) After January 31, 2007, the non-Configuration I engine installed on the airplane must have incorporated the Haynes-material in the HPC inner case rear hook during the original build or during an HPC overhaul in accordance with PWENG 72–714, dated June 27, 2000, or Revision 1, dated November 8, 2001, or Chromalloy Florida Repair procedure 00CFL–039–0, dated December 27, 2000.

(3) Prior to June 30, 2009 or whenever the HPC module is disassembled to a level that separates the HPC rear case assembly at H flange from the HPC module, whichever occurs first, incorporate the RCC rear HPC in accordance with PW SB PW4ENG 72–755, dated February 28, 2003. Engines incorporating the RCC rear HPC are Configuration I engines. See paragraph (v)(7) for definition of HPC rear case assembly.

(4) Incorporation of the RCC rear HPC constitutes terminating action to the Testing-21 requirements as specified in paragraph (o) of this AD, and engine stagger limit requirements as specified in paragraphs (c), (d), and (e) of this AD for engines installed on Boeing airplanes.

Note 2: Terminating action to this AD for engines installed on Airbus and McDonnell Douglas airplanes is pending RCC rear HPC certification to 14 CFR part 25. Once approved, this AD will be superseded to add terminating action requirements for the Airbus and McDonnell Douglas fleets.

Definitions

(v) For the purposes of this AD, the following definitions apply:

(1) An HPC overhaul is defined as restoration of the HPC stages 5 through 15 blade tip clearances to the limits specified in the applicable fits and clearances section of the engine manual.

(2) An HPC overhaul period is defined as the time period between HPC overhauls.

(3) An HPT overhaul is defined as restoration of the HPT stage 1 and 2 blade tip clearances to the limits specified in the applicable fits and clearances section of the engine manual.

(4) A Phase 3 engine is identified by a (-3) suffix after the engine model number on the data plate if incorporated at original manufacture, or a ''CN'' suffix after the engine serial number if the engine was converted using PW SBs PW4ENG 72–490, PW4ENG 72–504, or PW4ENG 72–572 after original manufacture.

(5) A Group 3 takeoff surge is defined as the occurrence of any of the following engine symptoms that usually occur in combination during an attempted airplane takeoff operation (either at reduced, derated or full rated takeoff power setting) after takeoff power set, which can be attributed to no specific and correctable fault condition after completing airplane-level surge during forward thrust troubleshooting procedures:

(i) Engine noises, including rumblings and loud ''bang(s).''

(ii) Unstable engine parameters (EPR, N1, N2, and fuel flow) at a fixed thrust setting.

(iii) Exhaust gas temperature (EGT) increase.

(iv) Flames from the inlet, the exhaust, or both.

(6) Takeoff EPR data is defined as Maximum Takeoff EPR if takeoff with Takeoff-Go-Around (TOGA) is selected or Flex Takeoff EPR if takeoff with Flex Takeoff (FLXTO) is selected. Maximum Takeoff EPR or Flex Takeoff EPR may be recorded using any of the following methods:

(i) Manually recorded by the flight crew read from the Takeoff EPR power management table during flight preparation (see Aircraft Flight Manual (AFM) chapter 5.02.00 and 6.02.01, or Flight Crew Operation Manual (FCOM) chapter 2.09.20) and then adjusted by adding 0.010 to the EPR value recorded; or

(ii) Automatically recorded during Takeoff at 0.18 Mach Number (Mn) (between 0.15 and 0.20 Mn is acceptable) using an aircraft automatic data recording system and then adjusted by subtracting 0.010 from the EPR value recorded; or

(iii) Automatically recorded during takeoff at maximum EGT, which typically occurs at 0.25—0.30 Mn, using an aircraft automatic data recording system.

(7) HPC rear case assembly is defined as the HPC rear case with heat shields and other minor detail parts installed within the HPC rear case, but not including the HPC rear segmented stators.

Alternative Methods of Compliance

(w) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

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

Testing-21 Reports

(y) Within 60 days of test date, report the results of the cool-engine fuel spike stability assessment tests (Testing-21) and on-wing Testing-21 to the ANE–142 Branch Manager, Engine Certification Office, 12 New England Executive Park, Burlington, MA 01803–5299, or by electronic mail to 9-ane-surge-ad-reporting@faa.gov. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056. Be sure to include the following information:

(1) Engine serial number.

(2) Engine configuration designation per Table 1 of this AD.

(3) Date of the cool-engine fuel spike stability test or on-wing Testing-21, as applicable.

(4) HPC Serial Number, and HPC time and cycles-since-new and since-compressor-overhaul at the time of the test.

(5) Results of the test (Pass or Fail).

Issued in Burlington, Massachusetts, on March 31, 2003.

Francis A. Favara,

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

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to revise three rules that describe the conditions of release for federal and District of Columbia offenders on parole supervision, and District of Columbia offenders serving terms of supervised release. The proposed revision consolidates similar provisions for the three groups of offenders and makes the conditions easier to read and understand. There are some minor changes in the directions given to the releasees. Finally, the Commission proposes to generally apply a condition presently required for some DC supervised releasees convicted of domestic violence offenses to all persons under supervision who were convicted of domestic violence offenses.

DATES: Comments must be received by May 7, 2003.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd, Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: The Parole Commission has the responsibility of imposing and enforcing conditions of release for those federal and District of Columbia offenders who have been released to parole supervision [1] and those District of Columbia felon offenders sentenced to a term of supervised release. Section 4209 of Title 18 U.S. Code describes the conditions of release that must be imposed for federal parolees, and permits the Commission to impose other conditions that are reasonably related to the nature and circumstances of the parolee's offense and the history and characteristics of the parolee, and other limitations that are reasonable to protect the public welfare. As a result of the transfer of parole authority required by the National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. 105–33, and laws now codified at DC Code 24–131(a) and (c) the Commission has the same broad authority granted to the former District of Columbia Board of Parole to release a prisoner on parole ''upon such terms and conditions as the Board shall from time to time prescribe.'' DC Code 24–404(a). For District of Columbia offenders on supervised release, the Commission has the authority to impose conditions of supervised release as provided in 18 U.S.C. 3583 using the procedures outlined in the federal parole statutes. DC Code 24–133(c)(2) and 24–403.01(b)(6).

Through the conditions of release the Commission provides guides and limitations for the releasee's conduct while under supervision. See 18 U.S.C. 4209(b) and 3583(f). The Commission imposes and enforces the conditions primarily to protect the public from a recurrence of criminal behavior by the releasee. The conditions are listed on a certificate given to the releasee at the outset of the supervision term. Examples of general conditions of release are requirements that the releasee obey all laws, remain within the geographical limits of the supervision district, and give complete and accurate reports of his activities to the supervision officer. Some conditions are required by statute, *e.g.*, that the offender refrain from unlawful use of a controlled substance or that a sex offender comply with sex offender registration laws. The Commission may also impose special conditions of release to address specific problems evident from the releasee's history, such as a requirement that the releasee participate in a drug treatment program or a mental health aftercare program.

The releasee's supervision officer is responsible for the day-to-day implementation of the release conditions.[2] If the releasee violates a condition of release, the consequence may range from an informal reprimand from the supervision officer or modification of release conditions to the releasee's return to prison through a revocation proceeding. Therefore, it is important that the release conditions should be sufficiently clear and specific to effectively inform the releasee of the rules he must follow under supervision. The releasee has the responsibility of seeking the guidance of the supervision officer if there is any ambiguity concerning the duties required of the releasee by the conditions.

Under the present format of the rules, the Commission has described the conditions of release that generally apply to persons on supervision in three separate rules within Part 2 of 28 CFR. Section 2.40 describes the conditions of parole for federal parolees. Section 2.85 covers conditions of parole for DC parolees. Section 2.204 lists the conditions of supervised release for DC supervised releasees. Each of these rules lists in full the general conditions of

[1] ''Parole supervision'' includes supervision of offenders for the remainder of the sentence of imprisonment after release by good time deduction. *See, e.g.*, 18 U.S.C. 4164.

[2] For federal parolees, the supervision officer is a U.S. Probation Officer. 28 CFR 2.38. DC Code offenders on parole or supervised release in the District of Columbia are supervised by community supervision officers of the Court Services and Offender Supervision Agency of the District of Columbia. 28 CFR 2.91.

release. Since the general conditions of release are virtually identical for all three groups of offenders, the rules are unnecessarily duplicative. The proposed rules reduce this duplication by using § 2.204 as the rule for the full statement of applicable conditions and then placing cross-references to § 2.204 in § 2.40 and § 2.85. Provisions that are unique to a particular group of offenders are maintained in the rules for the respective group, *e.g.*, the rule on the effect of a prisoner's refusal to sign a release certificate is maintained in § 2.40 and § 2.85.

The rules were reorganized and edited to make the conditions easier to read and understand. The revision includes minor changes and clarifications in the directions given to releasees. For example, the revised rule at § 2.204(a)(3) changes the direction given to a releasee who has an emergency and cannot report to the designated supervision office within 72 hours of release. The revised rule instructs that a releasee in this situation shall contact the designated supervision office by telephone, rather than report to the U.S. Probation Office nearest to the releasee's location. The revised rule at § 2.204(a)(5)(ii) clarifies that a releasee is prohibited from possessing ammunition, in addition to firearms and other dangerous weapons. (Convicted felons are prohibited by 18 U.S.C. 922(g) from possessing a firearm or ammunition.) The revised rule at § 2.204(a)(4)(iii), with the cross-references in the other sections, removes any question whether the condition advising a releasee to permit visits of the supervision officer to the releasee's residence and workplace applies to federal parolees as well as DC parolees and supervised releasees.

The Commission proposes § 2.204 as the repository for the full statement of the release conditions because the Commission's workload will eventually shift from parole to DC supervised release cases, and the statute governing supervised release cases (18 U.S.C. 3583) outlines the greatest number of release conditions that Congress has mandated for persons on supervision. The proposed revision incorporates in the rules all release conditions and other provisions required by statutory law for persons in the three groups. The proposal includes a decision to generally extend a condition mandating treatment for a supervised releasee convicted of a crime of domestic violence those persons on parole supervision. The statute at 18 U.S.C. 4209 does not require the condition for federal parolees and there is no DC law that mandates this condition for DC parolees. The Commission believes that this condition should be required for all persons on supervision who have been convicted of a crime of domestic violence.

The proposed revision retains rules on such matters as the consequence of an offender's failure to acknowledge his acceptance of release conditions by signing the release certificate and the procedures for modifying release conditions after an offender is released to the community.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this proposed rule does not constitute a significant rule within the meaning of Executive Order 12866. The proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Proposed Rule

Accordingly, the U.S. Parole Commission proposes the following amendments to 28 CFR part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Section 2.40 is revised to read as follows:

§ 2.40 Conditions of release.

(a) *General conditions of release.* (1) The conditions set forth in § 2.204(a)(3)–(6) apply for the reasons set forth in § 2.204(a)(1). These conditions are printed on the certificate of release issued to each releasee.

(2) The refusal of a prisoner who has been granted a parole date to sign the certificate of release (or any other document necessary to fulfill a condition of release) constitutes withdrawal of that prisoner's application for parole as of the date of refusal. To be considered for parole again, that prisoner must reapply for parole consideration. A prisoner who is released to supervision through good-time deduction who refuses to sign the certificate of release is nevertheless bound by the conditions set forth in that certificate.

(b) *Special conditions of release.* (1) The Commission may impose a condition other than one of the general conditions of release if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee. Examples of special conditions of release that the Commission frequently imposes are found at § 2.204(b)(2).

(2) If the Commission requires the releasee's participation in a drug-treatment program, the releasee must submit to a drug test before release, if the special condition was imposed before release, and to at least two other drug tests, as determined by the supervision officer. A decision not to impose this special condition, because available information indicates a low risk of future substance abuse by the releasee, shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 4209(a). If the Commission imposes this special condition before release, a grant of parole or reparole is contingent upon the prisoner passing all pre-release drug tests administered by the Bureau of Prisons.

(c) *Changing conditions of release.* The provisions of § 2.204(c) apply.

(d) *Appeal.* A releasee may appeal under § 2.26 an order to impose or modify a release condition not later than 30 days after the date the condition is imposed or modified.

(e) *Application of release conditions to absconder.* The provisions of § 2.204(d) apply.

(f) *Revocation for possession of a controlled substance.* If the Commission finds after a revocation hearing that a releasee, released after December 31, 1988, has possessed a controlled substance, the Commission shall revoke parole or mandatory release. If such a releasee fails a drug test, the Commission shall consider appropriate alternatives to revocation. The Commission shall not revoke parole on the basis of a single, unconfirmed positive drug test, if the releasee challenges the test result and there is no other violation found by the Commission to justify revocation.

(g) *Supervision officer guidance.* The provisions of § 2.204(f) apply.

(h) *Definitions.* For purposes of this section—

(1) The terms *supervision officer, domestic violence crime, approved offender-rehabilitation program* and *firearm,* as used in § 2.204, have the

meanings given those terms by § 2.204(g);

(2) The term *releasee,* as used in this section and in § 2.204 means a person convicted of a federal offense who has been released on parole or released through good-time deduction; and

(3) The term *certificate of release,* as used in this section and § 2.204, means the certificate of parole or mandatory release delivered to the prisoner under § 2.29.

3. Section 2.85 is revised by revising the section to read as follows:

§ 2.85 Conditions of Release.

(a) *General conditions of release.* (1) The conditions set forth in § 2.204(a)(3)–(6) apply for the reasons set forth in § 2.204(a)(1). These conditions are printed on the certificate of release issued to each releasee.

(2) The refusal of a prisoner who has been granted a parole date to sign the certificate of release (or any other document necessary to fulfill a condition of release) constitutes withdrawal of that prisoner's application for parole as of the date of refusal. To be considered for parole again, the prisoner must reapply for parole consideration. A prisoner who is released to supervision through good-time deduction who refuses to sign the certificate of release is nevertheless bound by the conditions set forth in that certificate.

(b) *Special conditions of release.* The Commission may impose a condition other than one of the general conditions of release if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee. Examples of special conditions of release that the Commission frequently imposes are found at § 2.204(b)(2).

(c) *Changing conditions of release.* The provisions of § 2.204(c) apply.

(d) *Application of release conditions to absconder.* The provisions of § 2.204(d) apply.

(e) *Supervision officer guidance.* The provisions of § 2.204(f) apply.

(f) *Definitions.* For purposes of this section—

(1) The terms *supervision officer, domestic violence crime, approved offender-rehabilitation program* and *firearm,* as used in § 2.204, have the meanings given those terms by § 2.204(g);

(2) The term *releasee,* as used in this section and in § 2.204, means a person convicted of an offense under the District of Columbia Code who has been released on parole or released through good-time deduction; and

(3) The term *certificate of release,* as used in this section and in § 2.204, means the certificate of parole or mandatory release delivered to the releasee under § 2.86.

4. Section 2.204 is revised to read as follows:

§ 2.204 Conditions of Supervised Release.

(a)(1) *General conditions of release and notice by certificate of release.* The conditions set forth in paragraphs (a)(3)–(6) of this section apply to every releasee and are necessary to protect the public welfare and to provide adequate supervision of the releasee. The certificate of release issued to each releasee by the Commission notifies the releasee of these conditions.

(2) *Effect of refusal to sign certificate of release.* A releasee who refuses to sign the certificate of release is nonetheless bound by the conditions set forth in that certificate.

(3) *Reporting arrival.* The releasee shall go directly to the district named in the certificate, appear in person at the supervision office, and report the releasee's residence address to the supervision officer. If the releasee is unable to appear in person at that office within 72 hours of release because of an emergency, the releasee shall contact that office by telephone. A releasee who is initially released to the physical custody of another authority shall follow these directions upon release from the custody of the other authority.

(4) *Providing information to and cooperating with the supervision officer.*

(i) The releasee shall, between the first and third day of each month, make a written report to the supervision officer on a form provided for that purpose. The releasee shall also report to the supervision officer at such times and in such a manner as that officer directs and shall provide such information as the supervision officer requests. All information that a releasee provides to the supervision officer shall be complete and truthful.

(ii) The releasee shall notify the supervision officer within two days of an arrest or questioning by a law-enforcement officer, a change in place of residence, or a change in employment.

(iii) The releasee shall permit the supervision officer to visit the releasee's residence and workplace.

(iv) The releasee shall permit the supervision officer to confiscate any material that the supervision officer believes may constitute contraband and that is in plain view in the releasee's possession, including in the releasee's residence, workplace, or vehicle.

(v) The releasee shall submit to a drug or alcohol test whenever ordered to do so by the supervision officer.

(5) *Prohibited conduct.*

(i) The releasee shall not violate any law and shall not associate with a person who is violating any law.

(ii) The releasee shall not possess a firearm, other dangerous weapon, or ammunition.

(iii) The releasee shall not drink alcoholic beverages to excess and shall not illegally buy, possess, use, or administer a controlled substance. The releasee shall not frequent a place where a controlled substance is illegally sold, dispensed, used, or given away.

(iv) The releasee shall not leave the geographic limits set by the certificate of release without written permission from the supervision officer.

(v) The releasee shall not associate with a person who has a criminal record without permission from the supervision officer.

(vi) The releasee shall not enter into an agreement to act as an informer or special agent for a law-enforcement agency without the prior approval of the Commission.

(6) *Additional conditions.*

(i) The releasee shall make a diligent effort to work regularly, unless excused by the supervision officer, and to support any legal dependent. The releasee shall participate in an employment readiness program if so directed by the supervision officer

(ii) The releasee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, or court-ordered child support or alimony payment to which the releasee is subject. The releasee shall provide financial information relevant to the payment of such a financial obligation that is requested by the supervision officer. If unable to pay such a financial obligation in one sum, the releasee shall cooperate with the supervision officer to establish an installment-payment schedule.

(iii) If the term of supervision results from a conviction for a domestic violence crime, and such conviction is the releasee's first conviction for such a crime, the releasee shall, as directed by the supervision officer, attend an approved offender-rehabilitation program if such a program is readily available within a 50-mile radius of the releasee's residence.

(iv) The releasee shall comply with any applicable sex-offender registration law.

(v) The releasee shall provide a DNA sample, as directed by the supervision officer, if collection of such sample is

authorized by the DNA Analysis Backlog Elimination Act of 2000.

(vi) If the releasee is supervised by the District of Columbia Court Services and Offender Supervision Agency, the releasee shall submit to the sanctions imposed by the supervision officer within the limits established by an approved schedule of graduated sanctions if the supervision officer finds that the releasee has tested positive for illegal drugs or has committed a noncriminal violation of the conditions of release. Notwithstanding the imposition of a graduated sanction, if the releasee is a risk to the public safety, or is not complying in good faith with the sanction imposed, the Commission may revoke the term of supervision based upon the violation that caused the imposition of the sanction, the failure to comply with the sanction imposed, or both.

(b)(1) *Special conditions of release.* The Commission may impose a condition other than a condition set forth in paragraphs (a)(3)–(6) of this section if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee.

(2) The following are examples of special conditions frequently imposed by the Commission—

(i) That the releasee reside in or participate in the program of a community corrections center, or both, for all or part of the period of supervision;

(ii) That the releasee participate in a drug- or alcohol-treatment program, and abstain from all use of alcohol and other intoxicants;

(iii) That, as an alternative to incarceration, the releasee remain at home during nonworking hours and have compliance with this condition monitored by telephone or electronic signaling devices; and

(iv) That the releasee permit a supervision officer to conduct a search of the releasee's person, or of any building, vehicle, or other area under the control of the releasee, at such time as that supervision officer shall decide, and to seize contraband found thereon or therein.

(3) If the Commission requires the releasee's participation in a drug-treatment program, the releasee must submit to a drug test within 15 days of release, if the special condition was imposed before release, and to at least two other drug tests, as determined by the supervision officer. A decision not to impose this special condition, because available information indicates a low risk of future substance abuse by the releasee, shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 3583(d).

(c) *Changing conditions of release.* (1) The Commission, sua sponte or at the request of the supervision officer or the releasee, may at any time modify or add to the conditions of release if the Commission determines that such modification or addition is necessary to protect the public welfare and provide adequate supervision.

(2)(i) Except as provided in paragraph (c)(2)(ii) of this section, before the Commission orders a change of condition, the releasee shall be notified of the proposed modification or addition and, unless waived, shall have 10 days from receipt of such notification to comment on the proposed modification or addition. Following that 10-day period, the Commission shall have 21 days, exclusive of holidays, to determine whether to order such modification or addition to the conditions of release.

(ii) The 10-day notice requirement of paragraph (c)(2)(i) of this section does not apply to a change of condition that results from a revocation hearing for the releasee, a determination that the modification or addition must be ordered immediately to prevent harm to the releasee or to the public, or a request from the releasee.

(d) *Application of release conditions to absconder.* A releasee who absconds from supervision prevents the term of supervision from expiring and the running of the term is tolled during the time that the releasee is an absconder. A releasee who absconds from supervision remains bound by the conditions of release, even after the date that the term of supervision originally was scheduled to expire. The Commission may revoke the term of supervision based on a violation of a release condition committed by such a releasee before the expiration of the term of supervision, as extended by the period of absconding.

(e) *Revocation for certain violations of release conditions.* If the Commission finds after a revocation hearing that a releasee has possessed a controlled substance, refused to comply with drug testing, or possessed a firearm, the Commission shall revoke the term of supervision and impose a term of imprisonment as provided at § 2.218.

(f) *Supervision officer guidance.* The Commission expects a releasee to understand the conditions of release according to the plain meaning of those conditions and to seek the guidance of the supervision officer before engaging in conduct that may violate a condition of release. The supervision officer may instruct a releasee to refrain from particular conduct that would violate a condition of release or to take specific steps to avoid or correct a violation of a condition of release.

(g) *Definitions.* As used in this section, the term—

(1) *Releasee* means a person who has been sentenced to a term of supervised release by the Superior Court of the District of Columbia;

(2) *Supervision officer* means a Community Supervision Officer of the District of Columbia Court Services and Offender Supervision Agency or United States Probation Officer;

(3) *Domestic violence crime* has the meaning given that term by 18 U.S.C. 3561, except that the term ''court of the United States'' as used in that definition shall be deemed to include the District of Columbia Superior Court;

(4) *Approved offender-rehabilitation program* means a program that has been approved by the District of Columbia Court Services and Offender Supervision Agency (or the United States Probation Office) in consultation with a State Coalition Against Domestic Violence or other appropriate experts;

(5) *Certificate of release* means the certificate of supervised release delivered to the releasee under § 2.203; and

(6) *Firearm* has the meaning given by 18 U.S.C. 921.

Dated: March 21, 2003.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 03–7849 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is proposing to exempt those records contained in the systems of records identified as F033 AF A, entitled ''Information Requests—Freedom of Information Act'' and F033 AF B, entitled ''Privacy Act Request Files'' when an exemption has been previously claimed for the records in ''other'' Privacy Act systems of records. The exemptions are intended to preserve the exempt status of the records when the purposes underlying

the exemptions for the original records are still valid and necessary to protect the contents of the records.

DATES: Comments must be received on or before June 6, 2003, to be considered by this agency.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043 or DSN 329–4043.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules 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.

List of Subjects in 32 CFR Part 806b

Privacy.

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Appendix C to part 806b is amended by adding paragraphs (b)(24) and (b)(25) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Appendix C to Part 806b—General and Specific Exemptions.

* * * * *

(b) Specific exemptions. * * *

(24) *System identifier and name:* F033 AF A, Information Requests-Freedom of Information Act.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(25) *System identifier and name:* F033 AF B, Privacy Act Request Files.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent (1) such provisions have been identified and an exemption claimed for the original record, and (2) the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: March 31, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–8214 Filed 4–4–03; 8:45 am]

BILLING CODE 5001–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–7474–6]

Establishment and Meeting of the Negotiated Rulemaking Committee on All Appropriate Inquiry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Establishment of FACA Committee and meeting announcement.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2. section 9(a)(2)), we are giving notice that the Environmental Protection Agency is establishing the Negotiated Rulemaking Committee On All Appropriate Inquiry. We also are announcing the date and location of the first meeting of the Committee. EPA has determined that the regulatory

negotiation process will ensure that we obtain a diverse array of input from both private sector stakeholders and state program officials who are familiar with and have experience in implementing processes to conduct all appropriate inquiry. EPA also has determined that this Committee is in the public interest and will assist the Agency in performing its duties as prescribed in the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields law). Negotiations will begin in April 2003 and conclude by December 2003.

Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress.

DATES: The first meeting of the Negotiated Rulemaking Committee on All Appropriate Inquiry will be held on April 29 and 30, 2003. The meeting is scheduled for 9 a.m. to 4:30 p.m. on both dates.

ADDRESSES: The first meeting of the Committee will be held in Conference Room 1117A of EPA East, 1201 Constitution Ave. NW., Washington, DC. The meeting is scheduled for 9 a.m. to 4:30 p.m. on April 29 and 30, 2003.

FOR FURTHER INFORMATION CONTACT: Persons needing further information should contact Patricia Overmeyer of EPA's Office of Brownfields Cleanup and Redevelopment, 1200 Pennsylvania Ave., NW., Mailcode 5105T, Washington, DC 20460, (202) 566–2774, or *overmeyer.patricia@epa.gov*.

SUPPLEMENTARY INFORMATION: On March 6, 2003 EPA published a notice in the **Federal Register** (68 FR 10675) announcing its intent to form a negotiated rulemaking committee under the Negotiated Rulemaking Act of 1996 and the Federal Advisory Committee Act. The purpose of the Committee will be to conduct discussions and reach consensus, if possible, on proposed regulatory language setting standards and practices for conducting all appropriate inquiry, as required by the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields law). That Notice discussed the issues to be negotiated and the interest groups proposed as members of the committee. The notice also discussed the procedures involved in a Negotiated Rulemaking process. The public comment period for that notice closed on April 5, 2003.

Issues for Negotiation

We anticipate that the issues to be addressed by the Negotiated Rulemaking Committee on All Appropriate Inquiry may include:

- Balancing the goals and priorities of state regulatory programs, privately-developed consensus standards, and the Congressional mandate for a federal standard for conducting all appropriate inquiry.
- Developing clear and concise standards that address each of the statutory criteria (section 101(35)(B)(iii) of CERCLA).
- Balancing the need to put abandoned properties back into productive reuse with concerns for public health and environmental protection.
- Balancing a need for clear and comprehensive standards that will ensure a high level of certainty in identifying potential environmental concerns without imposing time consuming and unnecessarily expensive regulatory requirements.
- Defining the shelf life of an assessment and the extent to which an assessment, or the results of all appropriate inquiry, may be transferred to subsequent property owners.
- Minimizing disruptions to the current real estate market due to the development of a federal standard that is different from current industry protocols while ensuring that the federal standard is protective and in compliance with statutory criteria.
- Identifying the extent to which sampling and analysis of potentially contaminated property may be required to document the presence, or the lack of, environmental contamination.
- Identifying what information is necessary on the potential contamination of adjacent and adjoining properties, as well as underlying groundwater resources.
- Establishing a list of contaminants to include in the investigation when conducting all appropriate inquiry.

Participants

The Committee will be composed of approximately 25 members representing parties of interest to the rulemaking ensuring a balanced representation from affected and interested stakeholder groups. EPA anticipates that the committee will contain the following types of representatives:

- Environmental Interest Groups
- Environmental Justice Community
- Federal Government
- Tribal Government
- State Government
- Local Government
- Real Estate Developers
- Bankers and Lenders
- Environmental Professionals

EPA has determined that this Committee is in the public interest and will assist the Agency in performing its duties as prescribed in the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields law).

The first meeting of the Committee will be held on April 29, 2003 in Washington, DC. The Committee will address organizational issues such as groundrules, schedules, and prioritization of issues discussions over the next few meetings. There is no requirement for advance registration for members of the public who wish to attend and observe the meeting. Opportunity for the general public to address the Committee will be provided at the end of the Committee meeting agenda.

Thomas P. Dunne,

Associate Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 03–7504 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 201–4202b; FRL–7473–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for General Electric Transportation Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing reasonably available control technology (RACT) determinations for General Electric Transportation Systems (GETS). GETS is a major source of nitrogen oxides (NO_X) located in Erie County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period.

Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 7, 2003.

ADDRESSES: Written comments should be addressed to Makeba Morris, Acting Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

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

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Pennsylvania's Approval of NO_X RACT Determinations for General Electric Transportation Systems, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: March 19, 2003.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 03–8362 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7477–6]

RIN 2060–AG12

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances; Correction

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of January 27, 2003, a direct final rule and companion proposed rule related to the Significant New Alternatives Policy (SNAP) program. A typographical error was made in the listing of a product name. This document identifies and corrects the error in the proposed rule.

DATES: These corrections are made as of April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Bella Maranion, by telephone at (202) 564–9479, by fax at (202) 565–2155, by e-mail at *maranion.bella@epa.gov,* or by mail at U.S. Environmental Protection Agency, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW., Washington, DC, 20001. Further information can be found by calling the Stratospheric Protection Hotline at (800) 296–1996, or by viewing EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/title6/snap/.*

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency published in the **Federal Register** of January 27, 2003, a proposed rule (68 FR 4012) related to the Significant New Alternatives Policy (SNAP) program. In FR Doc. 03–1624, published on January 27, 2003, a typographical error was made in the listing of a product name.

In FR Doc. 03–1624, published on January 23, 2003 (68 FR 4012), under ''Supplementary Information'', section II, ''Administrative Requirements'', make the following correction: on page 4013, in the second full paragraph of the second column, correct the product name ''H Galen HOPES'' to read ''H Galden HFPEs'' in both places in the paragraph where this error occurs.

Administrative Requirements

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 procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this correction is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a ''good cause'' finding that this correction is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this correction does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This correction also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant. This rule is not a ''significant energy action'' as defined in Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355 (May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

This correction does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the rule for the Listing of Substitutes for Ozone-Depleting Substances; Final Rule and Proposed Rule.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: March 25, 2003.

Drusilla Hufford,

Director, Global Programs Division.

[FR Doc. 03–8366 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–821; MM Docket No. 99–243; RM–9675, 10121, 10122, 10123]

Radio Broadcasting Services; Cameron, Rosebud, Thorndale and Thrall, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: A *Notice of Proposed Rule Making* was issued in response to a petition filed by Houston Christian Broadcasters, Inc. (''HCB''). *See* 64 FR 37926, July 14, 1999. HCB requested the allotment of Channel *286A at Thorndale, TX, reservation of the channel for noncommercial educational use, and amendment of its application for Channel 257A at Thorndale to specify operation on Channel *286A. Counterproposals were filed by Munbila Broadcasting Corp. requesting the allotment of Channel 286A at Rosebud, TX and by Elgin FM Limited Partnership requesting the allotment of Channel 286A at Thrall, TX. Additionally, a one-step application filed by Cameron Broadcasting requesting the substitution of Channel 286C3 for Channel 232A at Cameron, TX was accepted as a counterproposal. The proposals for Thorndale, Rosebud and Thrall, TX have been withdrawn. The application for Cameron, TX will be processed by the Audio Division subject to Commission Rules. Action in this document dismisses the petition for Thorndale and the counterproposals requesting allotments at Rosebud and Thrall. With this action, this proceeding is terminated.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–243, adopted March 19, 2003, and released March 21, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8405 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–626; MB Docket No. 03–58; RM–10608]

Radio Broadcasting Services; Pelham and Meigs, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Jerry E. White, Cindy Mitchell White, Donald E. White and Donald F. White d/b/a Mitchell County Television requesting the reallotment of Channel 222A from Pelham, Georgia to Meigs, Georgia, as the community's first local aural transmission service, and modification of the construction permit for Station WQLI to reflect the changes. Channel 222A can be allotted to Meigs at coordinates 31–04–50 and 84–09–33.

DATES: Comments must be filed on or before May 5, 2003, and reply comments on or before May 20, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–58, adopted March 12, 2003, and released March 14, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, or via e-mail *qualexint@aol.com*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Meigs, Channel 222A and removing Pelham, Channel 222A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8403 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–627; MB Docket No. 03–57; RM–10565]

Radio Broadcasting Services; Fort Collins, Westcliffe, and Wheat Ridge, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Tsunami Communications, Inc., licensee of Station KTCL, Channel 227C, Fort Collins, Colorado, proposing the substitution of Channel 227C0 for Channel 227C at Fort Collins and reallotment of Channel 227C0 to Wheat Ridge, Colorado. The coordinates for Channel 227C0 at Wheat Ridge are 39–40–18 and 105–07–32. To accommodate Channel 227C0 at Wheat Ridge, we shall propose the substitution of Channel

249A for vacant Channel 227A at Westcliffe, Colorado, at coordinates 38–03–21 and 105–30–02. The proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 227C0 at Wheat Ridge, Colorado.

DATES: Comments must be filed on or before May 5, 2003, and reply comments on or before May 20, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, Shook, Hardy & Bacon, 600 14th Street, NW., Suite 800, Washington, DC 20005–2004.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–57, adopted March 12, 2003, and released March 14, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 227C at Fort Collins, and by removing Channel 227A and adding Channel 249A at Westcliffe and by adding Wheat Ridge, Channel 227C0.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8402 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, 174, 175, 176, 177, and 178

[Docket No. RSPA–03–14793; Notice No. 03–04]

Regulatory Flexibility Act Section 610 and Plain Language Reviews

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of regulatory review; request for comments.

SUMMARY: RSPA requests comments on the economic impact of its regulations on small entities. As required by the Regulatory Flexibility Act and as published in DOT's Semi-Annual Regulatory Agenda, we are analyzing the rules applicable to the transportation of radioactive materials to identify requirements that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand.

DATES: Comments must be received by July 7, 2003.

ADDRESSES: Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Identify the docket number RSPA–03–14793 at the beginning of your comments and submit two copies. If you want to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. You can also submit comments by e-mail by accessing the Dockets Management System on the Internet at *http://dms.dot.gov* or by fax to (202) 366–3753.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, you can review comments by accessing the Dockets Management System at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366–8553; or Donna O'Berry, Office of Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366–4400.

SUPPLEMENTARY INFORMATION: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov.*

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of rules that have a significant economic impact on a substantial number of small business entities. The purpose of the review is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on December 9, 2002, listing in Appendix D (67 FR 74799) those regulations that each operating administration will review

under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The Research and Special Programs Administration (RSPA, we) has divided its Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and Section 610 Review Year. For purposes of the review announced in this notice, the Analysis year began in December 2002, coincident with the Fall 2002 publication of the Semiannual Regulatory Agenda, and will conclude in the Fall of 2003.

During the Analysis Year, we will analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each Fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have a negative finding, we will provide a short explanation. For parts, subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. At the end of the Review Year, we will publish the results of our review.

The following table shows the 10-year analysis and review schedule:

RSPA SECTION 610 REVIEW PLAN 1999–2009

Title	Regulation	Analysis Year	Review Year
Incident reports	§§ 171.15 and 171.16	1998	N/A
Hazmat safety procedures	Parts 106 and 107	1999	N/A
General Information, Regulations, and Definitions	Part 171.		
Carriage by Rail and Highway	Parts 174 and 177	2000	N/A
Carriage by Vessel	Part 176	2001	N/A
Radioactive Materials	Parts 172, 173, 174, 175, 176, 177, 178	2002	2003
Explosives	Parts 172, 173, 174, 176, 178	2003	2004
Cylinders	Parts 172, 173, 178, 180		
Shippers—General Requirements for Shipments and Packagings	Part 173	2004	2005
Specifications for Non-bulk Packagings	Part 178	2005	2006
Specifications for Bulk Packagings	Parts 178, 179, 180	2006	2007
Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements.	Part 172	2007	2008
Carriage by Aircraft	Part 175.		
Transportation Program Procedures	Part 107.		

C. Regulations Under Analysis

During Year 5 (2002–2003), the Analysis Year, we will conduct a preliminary assessment of the rules in 49 CFR parts 172, 173, 174, 175, 176, 177, and 178 applicable to radioactive materials transportation. The review will include the following parts and subparts:

Subpart	Title
Part 172	
Subpart B	Table of Hazardous Materials and Special Provisions.
Subpart C	Shipping Papers.
Subpart D	Marking.
Subpart E	Labeling.
Subpart F	Placarding.
Appendix B to Part 172	Trefoil Symbol.
Part 173	
Subpart A	General.
Subpart B	Preparation of Hazardous Materials for Transportation.
Subpart I	Class 7 (Radioactive) Materials.
Part 174	
Subpart C	General Handling and Loading Requirements.
Subpart D	Handling of Placarded Rail Cars, Transport Vehicles and Freight Containers.
Subpart K	Detailed Requirements for Class 7 (Radioactive) Materials.

Subpart	Title
Part 175	
Subpart A	General Information and Regulations.
Subpart B	Loading, Unloading, and Handling.
Subpart C	Specific Regulations Applicable According to Classification of Material.
Part 176	
Subpart A	General.
Subpart B	General Operating Requirements.
Subpart D	General Segregation Requirements.
Subpart M	Detailed Requirements for Radioactive Materials.
Part 177	
Subpart A	General Information and Regulations.
Subpart B	Loading and Unloading.
Subpart C	Segregation and Separation Chart of Hazardous Materials.
Subpart E	Regulations Applying to Hazardous Material on Motor Vehicles Carrying Passengers for Hire.
Part 178	
Subpart K	Specifications for Packagings for Class 7 (Radioactive) Materials.

We are seeking comments on whether any requirements for radioactive materials transportation in parts 172, 173, 174, 175, 176, 177, and 178 have a significant impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if any of the radioactive materials requirements in parts 172, 173, 174, 175, 176, 177, and 178 have a significant economic impact on your business or organization, please submit a comment explaining how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

II. Plain Language

A. Background and Purpose

Plain language helps readers find requirements quickly and understand them easily. Examples of plain language techniques include:

(1) Undesignated center headings to cluster related sections within subparts.

(2) Short words, sentences, paragraphs, and sections to speed up reading and enhance understanding.

(3) Sections as questions and answers to provide focus.

(4) Personal pronouns to reduce passive voice and draw readers into the writing.

(5) Tables to display complex information in a simple, easy-to-read format.

For an example of a rule drafted in plain language, you can refer to RSPA's final rule entitled ''Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures,'' which was published June 25, 2002 (67 FR 42948). This final rule revised and clarified the hazardous materials safety rulemaking and program procedures by rewriting 49 CFR part 106 and subpart A of part 107 in plain language and creating a new part 105 that would contain definitions and general procedures.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews of the HMR over a 10-year period on a schedule consistent with the section 610 review schedule. Thus, our review of requirements in parts 172, 173, 174, 175, 176, 177, and 178 applicable to radioactive materials transportation will also include a plain language review to determine if the regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as putting information in tables or consolidating regulatory requirements, that may make the regulations easier to use.

Issued in Washington, DC on March 31, 2003 under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 03–8316 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 266

[FRA Docket No. 3R–1979–1, Notice No. 3]

RIN 2130–AA60

Local Rail Freight Assistance to States

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Proposed rules; withdrawal.

SUMMARY: The FRA is withdrawing a notice of proposed rulemaking (NPRM) addressing the Local Rail Freight Assistance Program. In its NPRM published on November 30, 1990, 55 FR 49648, FRA proposed to modify 49 CFR part 266, which implements the agency's Local Rail Freight Assistance Program. Since the Administration has not requested, and the Congress has not provided, any appropriations for that program since 1995, and no new appropriations are anticipated, the proposed amendments are no longer necessary.

FOR FURTHER INFORMATION CONTACT: Joseph Pomponio, Senior Attorney, Office of Chief Counsel. FRA, 1120

Vermont Avenue, NW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 5 of the Department of Transportation Act (49 U.S.C. 1654 *et seq.*) establishes a program of federal grants to states to fund local rail freight assistance projects. The regulations implementing section 5 of the Act are contained in 49 CFR part 266. The Local Rail Service Reauthorizing Act, Public Law No. 101–213 (Dec. 11, 1989) (''Reauthorizing Act'') amended section 5 of the Act in several ways. The proposed amendment of part 266 was to reflect those amendments enacted by the Reauthorizing Act. However, the Administration has not requested, and the Congress has not provided, any appropriations for that program since 1995. As a result no new funding has been made available to recipients since that time and none is anticipated. Since no further funding is anticipated for the program, the proposed amendments to part 266 are no longer necessary.

Conclusion: Based on the foregoing, FRA is withdrawing the NPRM.

Issued in Washington, DC on March 31, 2003.

Allan Rutter,

Administrator.

[FR Doc. 03–8283 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 032703B]

RIN 0648–AN79, 0648–AP54, 0648–AP55

Fisheries Off West Coast States and in the Western Pacific; Precious Coral Fisheries, Fishery Management Plan (FMP) Amendment 4; Bottomfish and Seamount Groundfish Fisheries, FMP Amendment 6; Pelagic Fisheries, FMP Amendment 8; Crustacean Fisheries, FMP Amendment 10

AGENCY: National Marine Fisheries Service (NOAA), Commerce.

ACTION: Notice of availability of supplemental FMP amendments; request for comments.

SUMMARY: NMFS announces that the Western Pacific Fishery Management Council (Council) has prepared supplements to FMP Amendment 4 to the Fishery Management Plan for the Precious Coral Fisheries of the Western Pacific Region (Amendment 4) fisheries, FMP Amendment 6 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (Amendment 6), fisheries FMP Amendment 8 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Amendment 8) for fisheriesand FMP Amendment 10 to the Fishery Management Plan for Crustaceans Fisheries of the Western Pacific Region (Amendment 10) of the Western Pacific Region. The supplemental amendments, which have been submitted to NMFS for Secretarial review, are intended to implement certain revisions made by the provisions of the Sustainable Fisheries Act (SFA) revisions to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Included in the supplemental amendments are bycatch provisions for the bottomfish and seamount groundfish and pelagic FMPs fisheries; overfishing definitions and control rules for the bottomfish and seamount groundfish, pelagics, and crustacean FMPs fisheries; and definitions of ''fishing communities'' in Hawaii for the bottomfish and seamount groundfish, pelagics, crustaceans, and precious corals FMPs fisheries.

DATES: Written comments on the supplemental FMP amendments must be received on or before June 6, 2003.

ADDRESSES: Written comments on any of the supplemental FMP amendments should be sent to Dr. Charles Karnella, Administrator, Pacific Islands Area Office, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814, or faxed to 808–973–2941. Comments will not be accepted via e-mail or the internet.

Copies of the amendment documents are available from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813. The documents are also available on the following website: *http://www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, phone: (808) 522–8220; fax: (808) 522–8226.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires each Regional Fishery Management Council to submit fishery management plans or plan amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires NMFS, immediately upon receiving a fishery management plan or amendment, to publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially disapprove the fishery management plan or plan amendment.

The Council has prepared supplements to Amendment 4, Amendment 6, Amendment 8, and Amendment 10 that address bycatch issues; establish overfishing definitions and describe control rules; and designate define fishing communities in the State of Hawaii, consistent with the certain SFA amendments made by the 1996 SFA to the Magnuson-Stevens Act. Then on February 3, 1999, NMFS approved portions of the Council's FMP amendments pertaining to essential fish habitat provisions, identification of commercial, recreational and charter fishing sectors; overfishing definition for precious corals; bycatch provisions for crustaceans and precious coral fisheries; and designation definition of fishing communities for American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

The supplemental amendments provide new specifications of overfishing criteria. Maximum sustainable yield-based control rules and overfishing thresholds are defined for the Northwestern Hawaiian Islands (NWHI) lobster stock and multi-species complexes of bottomfish and seamount groundfish and western Pacific pelagic management unit species. Stock status determination criteria, including maximum fishing mortality thresholds and minimum stock size thresholds, are defined for the lobster stock, bottomfish, and pelagic stock complexes. The bottomfish and seamount groundfish FMP already contains measures to prevent overfishing and to rebuild overfished stocks. These include a moratorium on the harvest of armorhead to rebuild this stock in the seamount groundfish fishery, a prohibition on the use of destructive bottomfish fishing methods, area closures around the main Hawaiian Islands, and limited access programs in the implementation of bottomfish NWHI to limit fishing effort. Additional measures to prevent overfishing or to rebuild overfished stocks that may be considered by the Council in the future include additional area closures, seasonal closures, reduction in the number of available limited access permits, establishment of limited access programs in areas other than the NWHI, limits on catch per trip, limits on effort per trip, and fleet-wide limits on catch and effort.

The pelagics FMP already includes measures to prevent local overfishing

and to keep stocks from becoming locally overfished through a limited access program for the Hawaii-based longline fishery, prohibition on the use of drift gill nets, and various longline area closures in Federal waters around American Samoa, Guam, and Hawaii. Additional measures that may be considered by the Council in the event of overfishing include reductions in the number of limited access longline permits, size restrictions, etc.

The crustaceans FMP contains measures to prevent overfishing and keep NWHI stocks from becoming overfished including gear restrictions, trap specifications (to allow juvenile lobsters to escape), a limited access permit program for the NWHI commercial lobster fishery, a limit on the number of lobster traps allowed per vessel, seasonal and area closures, and annual bank-specific harvest guidelines. Additional measures that may be considered by the Council, if needed, include adjustments to the NWHI seasonal closure, temporary fishery closures, and size or species harvest restrictions.

Supplemental FMP amendments pertaining to bycatch issues describe bycatch levels and patterns in the bottomfish and seamount groundfish and pelagic fisheries. Management measures currently require all primary and relief operators (captains) in the NWHI limited access fisheries to complete one-time protected species workshop. The supplemental amendments describe recent improvements in bycatch reduction and bycatch reporting, as well as non-regulatory management initiatives to further minimize bycatch and reduce bycatch mortality, and improve the measurement of bycatch and analyses thereof in these fisheries. These initiatives include fishery outreach programs that foster awareness of bycatch issues, research into fishing methods and gear modification to reduce bycatch and bycatch mortality, development of markets for low value fish that would otherwise be discarded by fishermen, and improvements to information collection for bycatch.

The supplemental amendments for the bottomfish and seamount groundfish, pelagics, crustaceans, and precious corals FMPs define each of the major inhabited main Hawaiian islands as a fishing community. This island-by-island designation definition of fishing communities is based on analyses indicating that the social and economic cohesion of fishery participants is strongest at the island level. Fishing, support services, and fishery infrastructure are critically important to all of Hawaii's populated areas. As such fishing communities in Hawaii are not distinguished according to a particular fishery or gear type. The supplemental amendments define Hawaii's fishing communities as the islands of Niihau, Kauai, Oahu, Molokai, Maui, Lanai, and Hawaii.

Public comments on any or all of the supplemental FMP amendments must be received by June 6, 2003, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve the amendments.

The supplemental amendments contain no implementing regulations.

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

Dated: April 2, 2003.

Richard W. Surdi,

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

[FR Doc. 03–8398 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 66
Monday, April 7, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; End-Use Certificate Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on the extension of information collection currently used in support of the End-Use Certificate Program.

DATES: Comments about this notice must be received in writing on or before June 3, 2003, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Sharon Miner, USDA, Farm Service Agency, Warehouse and Inventory Division, Program Development Branch, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20520–0553, (202) 720–6266; or by e-mail to: *Sharon.Miner@usda.gov.* Comments may be submitted via facsimile to (202) 690–3123.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: End-Use Certificate Program.

OMB Control Number: 0560–0151.

Type of Request: Extension of currently approved information collection.

Expiration Date of Approval: June 30, 2003.

Abstract: This information collected is used to ensure that Canadian wheat does not benefit from USDA or Commodity Credit Corporation assisted export programs. The End-Use Certificate Program is covered at 7 CFR part 782. The North American Free Trade Agreement Implementation Act requires USDA to establish the end-use certificate system for Canadian wheat. Accordingly, Farm Service Agency requires information from the importers, subsequent buyers, and end-users to assist in tracking the Canadian wheat within the U.S. marketing system.

Estimate of Annual Burden: Average 0.215 hours per response.

Type of Respondents: Wheat importers, traders, and end-users.

Estimated Annual Number of Respondents: 421.

Estimated Number of Responses per Respondent: 128.

Estimated Total Annual Burden on Respondents: 4,520 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed in Washington, DC, on March 28, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–8308 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest, California, Meteor

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to conduct vegetative management activities using a variety of methods on National Forest System lands in the Salmon River watershed near the towns of Sawyers Bar, Forks of Salmon, and Cecilville in Siskiyou County, California. Timber harvest and associated activities are proposed on approximately 744 acres. Removal of non-commercial trees and brush are proposed on approximately 131 acres. No new road construction is proposed. Some road decommissioning is proposed. All activities would likely occur within three to five years of the decision being made.

DATES: Comments concerning the scope of the analysis must be received within 14 days of the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected by May 2003 and the final environmental impact statement is expected by September 2003.

ADDRESSES: Send written comments to Margaret Boland, Forest Supervisor, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097.

FOR FURTHER INFORMATION CONTACT: Lynda Karns, Team Leader, at the above address or call (530) 841–4469.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purposes of the proposed action are to maintain stand health by leading stands into a resilient condition where they can provide a sustained yield of wood products; to reduce the risk of losing these stands to catastrophic fire; to maintain unique wildlife habitats; and to provide an economical, safe, and environmentally sensitive transportation system. The need for treatment was identified when the existing condition was compared with the desired condition from the Klamath National Forest Land and Resource Management Plan. These needs or opportunities are taken from the Upper South Fork of the Salmon River Ecosystem Analysis, the North Fork Salmon Watershed Assessment, the Lower South Fork of the Salmon River Ecosystem Analysis, and the Klamath National Forest Forestwide Roads Analysis.

Proposed Action

The Salmon River District of the Klamath National Forest proposes timber harvest and associated activities on approximately 744 acres in the Salmon River Watershed. Harvest prescriptions include 313 acres of commercial thinning, 317 acres of group selection, 36 acres of green tree retention (some acres are double-counted with the thinning acres), 28 acres of seed tree/sanitation, and 50 acres of salvage. All acreages are approximate. Helicopter, cable, and tractor logging systems would be used. Harvest activities would occur on matrix land, which includes the land allocations of General Forest, Partial Retention, and Recreational Wild and Scenic Rivers (WSRs). Selected stream channel areas and unstable areas in the Riparian Reserve land allocation would be thinned to move these areas towards their desired condition. Associated activities including reforestation, precommercial thinning, browse protection, hardwood felling, hand grubbing and chainsaw release of planted trees, gopher control, and mastication (grinding up) of non-commercial trees would occur on matrix land. Project-generated fuels would be treated through a combination of hand piling, prescribed burning, yarding and removal of unmerchantable material, tractor piling, and other mechanical treatment.

Non-commercial trees and brush would be masticated on approximately 131 acres in nine stands outside of timber sale units. Habitat improvement activities would include low-intensity underburning in oak stands, repairing a fence, repairing the outlet to a pond, and improving two water developments.

No new road construction is proposed. One road would be stormproofed (made self-maintaining), one unclassified road would be improved and added to the transportation system, six unclassified roads would be decommissioned, and two roads would have maintenance level changes.

The legal description is Township 37–40 North, Range 11–12 West, Mount Diablo Meridian and Township 10 North, Range 8 East, Humboldt Meridian. All activities would likely be completed within three to five years of the decision being made.

Possible Alternatives

An alternative that includes timber harvest and associated activities on approximately 650 acres, mastication of non-commercial trees and brush on 41 acres outside of timber sale units, oak underburning, and improving two water developments would also be considered. Road work would be similar to the proposed action.

Responsible Official

Margaret Boland, Forest Supervisor, USDA Forest Service, 1312 Fairlane Road, Yreka, California 96097 is the Responsible Official.

Nature of Decision To Be Made

The Forest Service must decide whether it will implement this proposal, an alternative design that moves the area towards the desired condition, or not implement any project at this time.

Scoping Process

In October 2002, this vegetation management project was included in the Klamath National Forest's Schedule of Proposed Actions, which was posted on the Klamath National Forest's internet web site and mailed to interested parties. In January of 2003 a scoping letter for the proposed vegetation management project was mailed to 82 people, groups, and agencies. The scoping letter was sent to those who expressed interest in the proposal, who owned property adjacent to the project area, and to agencies with responsibilities for local resource management. This notice of intent invites additional public comment on this proposal and initiates the preparation of the environmental impact statement. Due to the extensive scoping effects already conducted, no scoping meeting is planned. The public is encouraged to take part in the planning process and to visit with Forest Service officials at any time during the analysis and prior to the decision.

While public participation in this analysis is welcome at any time, comments received within 14 days of the publication of this notice will be especially useful in the preparation of the draft environmental impact statement. The scoping process will include identifying potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Preliminary Issues

Six preliminary issues have been identified for this proposal as follows: (1) Timber harvest and underburning could reduce the quantity and quality of habitat providing for northern spotted owl (NSO) nesting, roosting, foraging, and dispersal activities in Critical Habitat in the Matrix. (2) Timber harvest in conjunction with past cumulative effects in the upper Jones Gulch Drainage could trigger slope failure in the dormant landslide area below. (3) Timber harvest, fuel reduction, and road activities, could cause soil erosion or trigger slope failure, which could increase sediment in streams, contributing to cumulative effects to water quality. (4) Timber harvest, fuel reduction, and road activities could increase sediment in streams, affecting the habitat of anadromous fish. (5) Logging in riparian reserves could cause erosion and result in sedimentation in streams. (6) Portions of units located along the North Fork of the Salmon River, which is designated as Recreational in the WSR System, could adversely affect WSR values.

Comment Requested

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments and assistance from Federal, State, and local agencies and other individuals or organizations that may be interested in, or affected by, the proposed vegetation management activities.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early state, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service handbook 1909.15, Section 21)

Dated: March 31, 2003.

Margaret J. Boland,

Forest Supervisor, Klamath National Forest.

[FR Doc. 03–8318 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra Nevada Forest Plan Amendment, Supplemental Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, Intermountain and Pacific Southwest Regions will prepare and consider a supplemental environmental impact statement (SEIS) for a proposal to amend the Record of Decision (ROD) for the Sierra Nevada Forest Plan Amendment, which was signed on January 12, 2001. Specifically, the proposed action responds to changed circumstances and new information identified during a year-long review of the Sierra Nevada Forest Plan Amendment. The proposed action would amend the Land and Resource Management Plans for the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, and Inyo National Forests, the Lake Tahoe Basin Management Unit. As done for the original ROD, the Regional Forester for the Pacific Southwest Region has delegated authority to adopt any changes on behalf of the Regional Forester for the Intermountain Region.

DATES: Scoping is not required for supplements to environmental impact statements (40 CFR 1502.9(c) 4(4)). There was extensive public involvement in the development of the proposed action and the Forest Service is not inviting comments at the time.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Morse, Interdisciplinary Team Leader, USDA Forest Service, Pacific Southwest Region, 1323 Club Drive, Vallejo, CA 94592. Phone: (707) 562–8822.

SUPPLEMENTARY INFORMATION:

Background

Over the past decade, the Forest Service has conducted large-scale land and resource management planning efforts for the Sierra Nevada bioregion. In 1992, the Forest Service Pacific Southwest Research Station published *The California Spotted Owl: A Technical Assessment of its Current Status* (CASPO Technical Report), which initiated a Sierra Nevada-wide planning effort to address concerns about declining California spotted owl populations. In January 1993, the Forest Service completed an environmental assessment that proposed guidelines for California spotted owl conservation based on measures described in the CASPO Technical Report. On January 13, 1993, the Regional Forester decided to adopt these guidelines for the Pacific Southwest Region as an interim measure to protect California spotted owl habitat until a long-term conservation strategy could be developed.

The Forest Service analyzed options for a long-term California spotted owl strategy in a draft environmental impact statement (EIS) released in February 1995 and a revised draft EIS released in 1996. In 1997, the Secretary of Agriculture chartered a Federal Advisory Committee (FAC) to review the revised draft EIS. The FAC concluded that the revised draft EIS was insufficient as either a California spotted owl management plan or as a broader ecosystem management plan.

In early 1998, the Chief of the Forest Service directed the Regional Forester of the Pacific Southwest Region to develop an ecosystem strategy for conserving California spotted owls, old forest ecosystems, and other forest resources, considering the recommendations of the FAC committee and recent scientific information presented in the Sierra Nevada Ecosystems Management Report (SNEP) to Congress, published between June 1996 and March 1997. The SNEP Report included four volumes of scientific assessments for the Sierra Nevada bioregion, with accompanying large database and maps. In November 1998, the Forest Service published a Notice of Intent to prepare an EIS to amend Land and Resource Management Plans for 11 national forests in the Sierra Nevada and Modoc Plateau and Regional Guides for the Intermountain and Pacific Southwest Regions to address five problem areas: old forest ecosystems and associated species; aquatic, riparian, and meadow ecosystems; fire and fuels; noxious weeds; and lower westside hardwood ecosystems. In May 2000, the draft EIS for the Sierra Nevada Forest Plan Amendment (SNEPA) was released. The final EIS for the SNFPA was released in January 2001 and the Record of Decision was signed on January 12, 2001.

As the Forest Service was preparing the Notice of Intent for the SNFPA, the Herger-Feinstein Quincy Library Group Forest Recovery Act (HFQLG Forest Recovery Act) became law in October 1998 as part of the Department of Interior and Related Agencies Appropriations Act. The HFQLG Forest Recovery Act required the Forest Service to conduct a 5-year pilot project to implement certain resource protection measures and management activities on the Plumas, Lassen, and Tahoe National Forests. Based on the direction in the HFQLF Forest Recovery Act, the Forest Service prepared an environmental impact statement (EIS) evaluating the impacts of the pilot project. In August 1999, the Lassen, Plumas, and Tahoe Forest Supervisors issued the Record of Decision (ROD) and the Final Environmental Impact Statement (FEIS) for pilot project implementation. Subsequently, the pilot project area was included in the SNFPA and management direction for the pilot project was changed to reflect the January 12, 2001 decision.

On November 16, 2001, the Chief of the Forest Service completed his review of 234 appeals of the SNEPA ROD. The Chief affirmed the SNFPA ROD. However, in his appeal decision, the Chief instructed the Regional Forester of the Pacific Southwest Region to re-evaluate the SNFPA decision in light of recent and repeated severe fire seasons and a need to aggressively manage

excessive fuel loading. Incompatibilities between the HFQLG Forest Recovery Act and the SNFPA were another area of concern. The Chief's appeal decision was subject to discretionary review by the Secretary of Agriculture, however, a review was not concluded.

On December 31, 2001, the Regional Forester chartered the Sierra Nevada Forest Plan Amendment River Team (Team) to evaluate any needed changes to the SNFPA ROD relative to the areas of concern identified in the Chief's appeal decision as well as other issues raised in the appeals, specifically the impacts of the decision on grazing permit holders, recreation users and permit holders, and local communities. Over the course of a year-long review, the Team worked with staffs from national forests and ranger districts; an interagency team with members from Federal, State, and local agencies, former members of the SNFPA interdisciplinary team; scientists; and various various interest groups to gain insights and new information relative to the SNFPA ROD. The Team developed recommendations consistent with the Regional Forester's charter to ''develop flexible solutions primarily focused on improving local decision-making capabilities, while meeting our obligations under applicable laws.'' In March 2003, the Team released its findings and recommendations in a report entitled ''Sierra Nevada Forest Plan Amendment Management Review and Recommendations'' (USDA Forest Service Pacific Southwest Region, R5–MB–012), March 2003).

Purpose and Need for Action

Based upon the new analysis and information provided by the review and the knowledge gained by field managers charged with implementing the decision, the Regional Forester proposes to change selected elements of the SNFPA. The proposal builds on the strengths of the SNFPA ROD and retains its goals, land allocations, acres of treatment and the same priority to protect communities. The proposed changes respond to the Chief's direction: (1) Identify ways to more aggressively treat fuel loading in the Sierra Nevada while providing short and long-term protection of wildlife and other resource values, (2) improve consistency with the National Fire Plan, and (3) achieve greater harmony between the SNFPA and the HFQLG Forest Recovery Act. In addition, the proposed action allows for a wider array of tools and techniques to be used to achieve the desired conditions for a given location. This will increase the efficiency and effectiveness of fuels treatments and provide more opportunities to balance uses such as grazing and recreation with habitat protection for sensitive species.

Proposed Action

The proposed action replaces select standards and guidelines in the existing fire and fuels management strategy with direction that provides the flexibility needed at the local level to effectively modify wildland fire behavior. In addition, the basic strategy is broadened to include other management objectives such as addressing forest health issues, restoring and maintaining ecosystem structure and composition, and restoring ecosystems after severe wildfires. The resulting integrated vegetation management strategy is designed to be sufficiently aggressive to minimize risk in the urban-wildland interface areas and adequately address the threats to wildlife from catastrophic wildfires. This objective is balanced with the need to provide for short-term and long-term protection for wildlife and other resource values.

The proposed action builds some flexibility into standards and guidelines for willow flycatcher habitat, Yosemite toad habitat, great gray owl protected activity centers, and grazing utilization to better reflect the wide array of site conditions encountered in the field and the management opportunities they may provide.

The proposed action clarifies management intent for off-highway vehicles, limits the requirement for limited operating periods to vegetative management projects only, and clarifies how several of the riparian standards and guidelines apply to recreation activities, uses and projects. These changes are proposed to more closely align written direction with management intent and to allow local managers to develop mitigation measures for small and varied recreation-related projects on a project- and site-specific basis.

Responsible Official

The responsible official is Regional Forester Jack A. Blackwell, USDA Forest Service Pacific Southwest Region, 1323 Club Drive, Vallejo, CA 94592.

Nature of Decision To Be Made

The Record of Decision for the SEIS will amend the Land and Resource Management plans for the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, and Inyo National Forests, the Lake Tahoe Basin Management Unit.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft SEIS is expected to be available for public review and comment in May 2003; and a final environmental impact statement in October 2003. The comment period for the draft SEIS will be 90 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Sec)

Gilbert Espinosa,

Deputy Regional Forester.

[FR Doc. 03–8317 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (DPAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Advisory Committee will meet on April 17th, 2003 starting at 9 a.m. at the Jefferson County Firehall on the corner of Adam and ''J'' Street in Madras, Oregon. Agenda items will include a presentation on the Deschutes National Forest Recreation Initiative, Update on the status of the Aquatic Conservation Strategy and Survey and Manage Supplemental EISs, Update on the Upper Deschutes Resource Management Plan and Metolious Basin Subcommittees, Rechartering, and a briefing on the new Stewardship Contract authority. The remainder of the day will include info sharing and a Public Forum from 4 p.m. until 4:30 p.m. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Prineville BLM, 3050 NE 3rd St., Prineville, OR 97754, Phone (541) 416–6872.

Dated: March 31, 2003.

Leslie A.C. Weldon,

Deschutes National Forest Supervisor.

[FR Doc. 03–8319 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold meetings on April 11, 2003, in Chester, California, and on May 16, 2003, in Chilcoot, CA. The March 7, 2003, meeting was cancelled. The purpose of the April meeting will be to review the proposed Plumas County Title III projects, consider several resubmitted projects from the second (Cycle 2) funding cycle, and to review dates and materials for the third (Cycle 3) funding process under the Title 2 provisions of the Secure Rural Schools and Community Self-Determination Act of 2000. The May agenda will be established at the April meeting.

DATES AND ADDRESSES: The April 11 meeting will take place from 9–1:30 p.m., at the Lake Almanor Elks Lodge, 164 Main Street, Chester, California. The time and place for the May 16 meeting will be determined at a later date.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, PO Box 11500/159 Lawrence Street, Quincy, CA, 95971; (530) 283–7850; or by e-mail to *eataylor@fs.fed.us.* Final agendas are posted one week prior to the meeting on the Internet at: *http://www.fs.fed.us/r5/pay2states/plumas.* Prior meeting minutes and agendas are available on the same site.

SUPPLEMENTARY INFORMATION: Agenda items for the April 11 meeting include:

(1) Forest Service update regarding RAC general administration and replacement members;

(2) Review Cycle 2 project approvals with Forest Supervisor;

(3) Consider and make decision on Cycle 3 funding cycle dates and materials;

(4) Review Plumas County Supervisor's proposed Title III projects; and

(5) Future meeting schedule/logistics/agenda.

The meetings are open to the public and individuals may address the Committee after being recognized by the Chair.

Dated: March 28, 2003.

Robert G. MacWhorter,

Deputy Forest Supervisor.

[FR Doc. 03–8320 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Crook County Resource Advisory Committee, Sundance, Wyoming, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday April 21, 2003 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on April 21, begins at 6:30 p.m. at U.S. Forest Service, Bearlodge Ranger District Office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include making decisions on proposals to fund. A public forum will be at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: April 1, 2003.

Steve Kozel,

Bearlodge District Ranger.

[FR Doc. 03–8482 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, April 9, 2003, at the State House, 115 State Street, Montpelier, Vermont 05602. The Advisory Committee will hold a town hall meeting with public agency officials, educators, and community leaders to discuss efforts to address racism and harassment of minorities in Vermont public schools and communities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino, of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, March 19, 2003.

Dawn R. Sweet,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 03–8333 Filed 4–4–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213(2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than the last day of April 2003, interested parties may request an administrative review of the following order with an anniversary date in April for the following period:

Antidumping Duty Proceedings

The People's Republic of China:
Automotive Replacement Glass Windshields
A–570–867

Period

9/19/01–3/31/03

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of April 2003. If the Department does not receive, by the last day of April 2003, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 2, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 03–8416 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805][C–489–806]

Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta from Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta from Turkey.

SUMMARY: The Department of Commerce (''the Department'') has received information sufficient to warrant initiation of changed circumstances administrative reviews of the antidumping and countervailing duty orders on certain pasta from Turkey. Based on this information, we preliminarily determine that Gidasa Sabanci Gida Sanayi ve Ticaret A.S. (''Gidasa'') is the successor-in-interest to Maktas Makarnacilik ve Ticaret A.S. (''Maktas'') for purposes of determining antidumping and countervailing duty liabilities. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Jim Neel or Eric Greynolds (Antidumping) or Jennifer D. Jones (Countervailing), Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4161, (202) 482–6071, or (202)482–1664, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping and countervailing duty orders on pasta from Turkey (61 FR 38545–38547). On February 12, 2003, Gidasa submitted information stating that Gidasa is the successor-in-interest to Maktas and, as such, Gidasa is entitled to the receive the same antidumping and countervailing duty treatment as is accorded Maktas. On March 5, 2003, petitioners entered their appearance and objected to an expedited treatment of these changed circumstances reviews on the basis that such treatment would preclude a ''full and meaningful'' participation of all

parties. Subsequently, on March 7, 2003, Gidasa submitted comments on petitioners' objections and provided further support for its expedited treatment request.

Scope of Reviews

Imports covered by these reviews are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of these reviews are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (*HTSUS*). Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Ruling

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package of pasta weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland*, dated May 24, 1999, in the case file in the Central Records Unit, main Commerce building, room B-099 (''CRU'').

Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Reviews

In a submission dated February 12, 2003, Gidasa advised the Department that in December 2002, Gidasa had acquired all of Maktas' assets. The relevant facts in that process were as follows.

In December 2002, a Turkish holding company, Haci Omer Sabanci Holding A. S. (''Sabanci''), incorporated Gidasa as a Turkish corporation. Once established, Gidasa bought the assets of Maktas, including its facilities and its brand name (''Piyale''), essentially taking over all the activities and functions of Maktas.

Gidasa then began producing the same products, under the Piyale name, with the same personnel and equipment and selling them to the same customers through the same channels, using the same management team as its predecessor, Maktas. In accordance with section 751(b) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.216, the Department has determined that there is a sufficient basis to initiate a review of changed circumstances to determine whether Gidasa is the successor-in-interest to Maktas.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20461 (May 13, 1992) (''*Canadian Brass*''). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994) and *Canadian Brass*, 57 FR at 20461. Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

We preliminarily determine that Gidasa is the successor-in-interest to Maktas. In its February 12, 2003, submission, Gidasa provided evidence that production continues with the same equipment, the same workers, the same raw materials purchased from the same suppliers, and the same production process. Gidasa also provided evidence that it continues to sell the same products to the same customers to which Maktas previously sold. Moreover, Gidasa has provided evidence that substantially all management and employees are the same as when the factory was managed by Maktas. Documentation attached to Gidasa's February 12, 2003, submission supports its claims that the acquisition of Maktas resulted in little or no changes in either production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) Maktas and Gidasa's price lists, supplier lists, distributer lists, sales history, and product catalogs; (2) Sabanci, Maktas, and Gidasa's organization charts; and (3) documents supporting transfer of trademarks, equipment, and real property from Maktas to Gidasa. The documentation described above demonstrates that (i) substantially all employees of Maktas, including management, have been transferred to Gidasa, (ii) the business was sold as a going concern, and (iii) there was little to no change in management structure, supplier relationships, production facilities, or customer base. In its March 5, 2003, submission, petitioners objected to an expedited treatment of these changed circumstances reviews. However, petitioners offered no compelling reasons for the Department not to proceed with these changed circumstances reviews on an expedited basis.

When warranted, the Department may publish the notice of initiation and preliminary determination concurrently. *See* 19 CFR 221(c)(3)(ii). The Department has determined that such action is warranted because Gidasa has provided *prima facie* evidence that it is the successor-in-interest to Maktas.

For the forgoing reasons, we preliminarily determine that Gidasa is the successor-in-interest to Maktas and should receive the same antidumping and countervailing duty rates with respect to certain pasta from Turkey as the former Maktas.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews,

including the results of its analysis of issues raised in any written comments.

We are issuing and publishing these determinations and notice in accordance with sections 751(b) and 777(i)(1) of the Act and sections 19 CFR 351.216 and 351.221.

Dated: March 31, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8410 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818][C–475–819]

Notice of Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy.

SUMMARY: The Department of Commerce (the Department) has received information sufficient to warrant initiation of changed circumstances reviews of the antidumping and countervailing duty orders on certain pasta from Italy. Based on this information, we preliminarily determine that Pasta Lensi S.r.l. is the successor-in-interest to Italian American Pasta Company Italia S.r.l. (IAPC) for purposes of determining antidumping and countervailing duty liability. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Alicia Kinsey (Antidumping) or Stephen Cho (Countervailing), Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3798, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy (61 FR 38547). Also, on July 24, 1996, the Department published in the **Federal Register** the companion countervailing duty order (61 FR 38544). Five reviews of these orders have been conducted, and a sixth is underway. IAPC participated in the fifth review and is an interested party in the ongoing sixth review of these orders. On February 12, 2003, IAPC submitted a letter stating that it changed its corporate name to Pasta Lensi S.r.l. (Lensi), and that Lensi is the successor-in-interest to IAPC. As such, the former IAPC argues that Lensi is entitled to receive the same antidumping and countervailing cash deposit rates accorded to IAPC.

The former IAPC also requested that the Department conduct expedited changed circumstances reviews pursuant to 19 CFR 351.221(c)(3)(ii). Petitioners have not responded to IAPC's February 12, 2003 request for changed circumstances reviews.

Scope of Review

Imports covered by these reviews are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of these reviews are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (*HTSUS*). Although the *HTSUS* subheading is provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See Memorandum from Edward Easton to Richard Moreland*, dated August 25, 1997, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce Department Building.

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See Letter from Susan H. Kuhbach to Barbara P. Sidari*, dated July 30, 1998, which is available in the CRU.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation of Barilla, an Italian producer and exporter of pasta. The Department initiated the investigation on December 8, 1997 (62 FR 65673). On October 5, 1998, the Department issued its final determination that Barilla's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping duty order on pasta from Italy pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(b). *See Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland*, dated May 24, 1999, which is available in the CRU.

The following scope ruling is pending:

(5) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). *See Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry*

of the Antidumping and Countervailing Duty Orders, 65 FR 26179 (May 5, 2000).

Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Reviews

In the February 12, 2003 submission, IAPC advised the Department that in September of 2002, IAPC acquired certain intangible assets of Pastificio Lensi S.p.A and that IAPC resolved to change its name to Pasta Lensi S.r.l. The February 12, 2003 submission demonstrates that in November 2002, a Registration Notice registering the name change was filed with the Brescia Chamber of Commerce, Industry, Handicrafts, and Agriculture. Prior to the acquisition and name change, the former IAPC made two changes to its board of directors and company management. However, the corporate structure and ownership of the company did not change as a result of the name change. Lensi operates the same production facility operated by IAPC. No production facilities have been added, eliminated, or transferred since the name change. Lensi's supplier relationships have stayed the same as IAPC's, and Lensi's customer base did not substantially change as a result of the name change. In accordance with section 751(b) of the Act and 19 CFR 351.216, the Department has determined that there is a sufficient basis to initiate changed circumstances reviews to determine whether Lensi is the successor-in-interest to IAPC.

In making such a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460 (May 13, 1992) (*Canadian Brass*). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994); *see also Canadian Brass*, 57 FR 20460, Comment 1 (''[G]enerally, in the case of an asset acquisition, the Department will consider the acquiring company to be a successor to the company covered by the antidumping duty order, and thus subject to its duty deposit rate, if the resulting operation is essentially similar to that existing before the acquisition.'') Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

We preliminarily determine that Lensi is the successor-in-interest to IAPC. Documentation attached to Lensi's February 12, 2003, submission supports its claims that the acquisition of certain intangible assets resulted in little or no change in either production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) minutes of the September 4, 2002 IAPC Board of Directors Meeting and September 19, 2002 Extraordinary Shareholder Meeting detailing the resolve to change the name from IAPC to Lensi and to acquire certain assets, and the shareholder approval of the name change and acquisition of assets; (2) Registration Statement filed with Brescia Chamber of Commerce; (3) legal structure of the former IAPC's parent company, the American Italian Pasta Company's European affiliates, before and after the name change; (4) a list of the IAPC/Lensi Board of Directors; (5) organization charts for IAPC and Lensi, before and after the name change; (6) list of suppliers and quantity of purchases for IAPC/Lensi; and (7) customers and quantity of sales for IAPC and Lensi, before and after the name change. The documentation described above

demonstrates that (i) substantially all employees of IAPC, including most of the management, remain the same, (ii) the intangible assets were sold as a going concern, and (iii) there were little or no changes in management structure, supplier relationships, production facilities, or customer base.

When ''expedited action is warranted,'' the Department may publish the notice of initiation and preliminary determination concurrently. *See* 19 CFR 351.221(c)(3)(ii); *see also Granular Polytetrafluoroethyline Resin from Italy: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Revew*, 68 FR 13672 (March 20, 2003). The Department has determined that such action is warranted because IAPC has provided *prima facie* evidence that Lensi is its successor-in-interest, and we have the information necessary to make a preliminary finding already on the record.

Based upon the record evidence, we find that Lensi operates as the same business entity as IAPC. Thus, we preliminarily determine that Lensi is the successor-in-interest to IAPC.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. See 19 CFR 531.309, 310. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews, including the results of its analysis of issues raised in any written comments.

We are issuing and publishing these determinations and notice in accordance with sections 751(b) and 777(i)(1) of the Act and sections 351.216 and 351.221 of the Department's regulations.

Dated: March 31, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8411 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-507–502]

Certain In-Shell Raw Pistachios from Iran: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of Rescission of Antidumping Duty Administrative Review

SUMMARY: On August 27, 2002, the Department of Commerce (the Department) published in the **Federal Register** (67 FR 55000) a notice announcing the initiation of an administrative review of the antidumping duty order on certain in-shell pistachios from Iran covering two exporters. The period of review (POR) is July 1, 2001, to June 30, 2002. This review has now been rescinded because

both parties requesting the review withdrew their request.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall or Donna Kinsella, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–1398 or (202) 482–0194 respectively.

Scope of the Review

The product covered by this review is raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells, and edible meats from Iran. This merchandise is currently provided for in item 0802502000 of the *Harmonized Tariff Schedule*.

Background:

On July 31, 2002, Cyrus Marketing (an importer) requested an administrative review of Rafsanjan Pistachio Producers Cooperative (RPPC), an Iranian producer and exporter of in-shell pistachios, with respect to the antidumping duty order published in the **Federal Register**. *See Antidumping Duty Order: Certain In Shell Pistachios from Iran*, 51 FR 25922 (July 17, 1986). Additionally, the petitioner, California Pistachio Commission (CPC), requested an administrative review of the Tehran Negah Nima Trading Company, Inc. (Nima). The Department initiated the review for both companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (August 27, 2002).

On March 5, 2003, the CPC withdrew its request for administrative review of Nima. On March 19, 2003, Cyrus Marketing withdrew its request for review of RPPC. The applicable regulation, 19 CFR 351.213(d)(1)(2002), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. Although Cyrus Marketing's and the CPC's requests for withdrawal were made after the 90-day deadline, in accordance with 19 CFR 351.213(d)(1), the Secretary may extend this time limit if the Secretary decides it is reasonable to do so. We have received no submissions opposing Cyrus Marketing's request for withdrawal of the administrative review and Cyrus Marketing was the only party to request the administrative review of RPPC. Likewise, we have received no submissions opposing CPC's request for withdrawal of the administrative review and CPC was the only party to request the administrative review of Nima. In addition, on October 31, 2002, Nima submitted certifications that it did not have any U.S. sales or shipments during the POR. Therefore, we find it reasonable to extend the deadline and accept the withdrawal requests, and we are rescinding this review of the antidumping duty order on certain in-shell pistachios from Iran covering the period July 1, 2001, through June 30, 2002, for both companies.

This notice is issued and published in accordance with sections 751 and 777(i) of the Tariff Act of 1930 and 19 CFR 351.213(d)(4).

Dated: April 1, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8413 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Filings From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Antidumping Duty Order.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Ronald Trentham or Sam Zengotitabengoa, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6320, and (202) 482–4195, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as ''cast iron pipe fittings'' or ''gray iron pipe fittings.'' These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Antidumping Duty Order

On March 24, 2003, pursuant to section 735(b)(1)(A)(ii) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (the ITC) notified the Department of Commerce (the Department) of its final determination that the industry in the United States producing non-malleable cast iron pipe fittings is threatened with material injury by reason of import of the subject merchandise from the People's Republic of China (PRC).

In accordance with section 736(a)(1) of the Act, the Department will direct the U.S. Customs Service (Customs) to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the U.S. price of the merchandise for all relevant entries of non-malleable cast iron pipe fittings form the PRC. In accordance with section 736(b)(2) of the Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination if that determination is

based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination. In addition, section 736(b)(2) of the act requires Customs to refund any cash deposits or bonds of estimated antidumping duties posted since the Department's preliminary antidumping determination if the ITC's final determination is based on a threat of material injury.

Because the ITC's final determination in this case is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination, section 736(b)(2) is applicable to this order. Therefore, the Department will direct Customs to assess, upon further advice, antidumping duties on all liquidated entries of non-malleable cast iron pipe fittings for the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination of threat of material injury in the **Federal Register** and terminate the suspension of liquidation for entries of non-malleable cast iron pipe fittings from the PRC entered, or withdrawn from warehouse, for consumption prior to that date. The Department will also instruct Customs to refund any cash deposits made, or bonds posted, between the publication date of the Department's preliminary antidumping determination and the publication of the ITC's final determination.

On or after the date of publication of the ITC's notice of final determination in the **Federal Register**, Customs will require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average dumping margins listed below. The ''PRC-wide rate'' rate applies to all exporters of subject merchandise not specifically listed below.

Manufacturer/exporter	Weighted-average margin (percent)
Jinan Meide Casting Co., Ltd	7.08
Shanghai Foreign Trade Enterprises Co., Ltd	6.34
PRC-Wide Rate	75.50

Pursuant to section 735(a) of the Act, this notice constitutes the antidumping duty order with respect to non-malleable cast iron pipe fittings from the PRC. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: April 1, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8414 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580–601]

Top-of-the-Stove Stainless Steel Cooking Ware from the Republic of Korea: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Sam Zengotitabengoa or Ron Trentham, Group II, Office 4, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 or 482–6320, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2003, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on top-of-the-stove stainless steel cooking ware (Cookware) from the Republic of Korea (Korea) (68 FR 9048).

On February 27, 2003, pursuant to a request made by Dong Won Metal Co., Ltd. (Dong Won), a producer and exporter of Cookware, the Department initiated an administrative review of the antidumping duty order on Cookware from Korea. On March 23, 2003, Dong Won withdrew its request for an administrative review of Cookware from Korea.

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that a party that requests an administrative review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. The Department is rescinding the administrative review of the order on Cookware from Korea for the period January 1, 2002 through December 31, 2002, because the requesting party has withdrawn its request for this administrative review within the 90-day time limit, and no other interested parties have requested a review of Cookware from Korea for this time period.

This notice is in accordance with section 777(i)(1) of the Act and 19 CFR 251.213(d)(4).

Dated: April 1, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–8415 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–851]

Preliminary Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary affirmative countervailing duty determination.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of dynamic random access memory semiconductors from the Republic of Korea. For information on the estimated countervailing duty rates, *see infra* section on ''Suspension of Liquidation.''

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Melani Miller, Ryan Langan, Jesse Cortes, or Daniel J. Alexy, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0116, (202) 482–2613, (202) 482–3986, and (202) 482–1540, respectively.

Petitioner

The petitioner in this investigation is Micron Technology, Inc. (''the petitioner'').

Period of Investigation

The period for which we are measuring subsidies, or period of investigation (''POI''), is January 1, 2001 through June 30, 2002.

Case History

The following events have occurred since the publication of the Department of Commerce's (''the Department'') notice of initiation in the **Federal Register**. *See Notice of Initiation of Countervailing Duty Investigation: Dynamic Random Access Memory Semiconductors from the Republic of Korea,* 67 FR 70927 (November 27, 2002) (''*Initiation Notice*'').

On December 6, 2002, we issued countervailing duty questionnaires to the Government of the Republic of Korea (''GOK'') and the two major producers/exporters of dynamic random access memory semiconductors (''DRAMS'' or ''subject merchandise'') in the Republic of Korea (''ROK''), Samsung Electronics Co., Ltd. (''SEC'') and Hynix Semiconductor Inc. (''Hynix'') (formerly, Hyundai Electronics Industries Co., Ltd. (''HEI'')).

On January 13, 2003, we published a postponement of the preliminary determination in this investigation until March 31, 2003. *See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Extension of Time Limit for Preliminary Determination of Countervailing Duty Investigation,* 68 FR 1597 (January 13, 2003).

We received the companies' responses to the Department's questionnaire on January 27, 2003, and the GOK's response on February 3, 2003. On February 5 and 11, 2003, the petitioner submitted comments regarding these questionnaire responses. We issued supplemental questionnaires to the companies and the GOK on February 11 and 19, 2003, and received responses to those supplemental questionnaires on February 25 and March 4, 10, and 14, 2003. We issued a second supplemental questionnaire to SEC on March 25, 2003, and received a response to this questionnaire on March 28, 2003.

On February 20, 2003, the petitioner submitted several new subsidy allegations. The petitioner made further submissions regarding these new allegations on February 24 and 28, 2003. Hynix, SEC, and the GOK filed comments on these new subsidy allegations on February 25, 26, and 28, respectively. SEC filed additional comments on March 4, 2003. We addressed these new subsidy allegations in a March 7, 2003, memorandum to Susan Kuhbach, *New Subsidy Allegations* (''*New Subsidy Allegations Memo*''), which is on file in the Department's Central Records Unit in Room B–099 of the main Department building (''CRU''). Because we initiated an investigation of two of these newly-alleged programs (as discussed in the *New Subsidy Allegations Memo*), we issued a questionnaire to the each of the respondents with respect to these new programs on March 7, 2003. We received a response to these questionnaires on March 28, 2003.

Finally, both the petitioner and the respondents, as well as other interested parties, submitted comments on the preliminary determination on March 10, 14, 18, 21, 24, 27, and 28, 2003.

Scope of Investigation

The products covered by this investigation are DRAMS from the ROK, whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of this investigation additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in-line processing modules, single in-line memory modules, dual in-line memory modules, small outline dual in-line memory modules, Rambus in-line memory modules, and memory cards or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter boards and cards, are not included in the scope. This investigation also covers future DRAMS module types.

The scope of this investigation additionally includes, but is not limited to, video random access memory and synchronous graphics RAM, as well as various types of DRAMS, including fast page-mode, extended data-out, burst extended data-out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. The scope also includes any future density, packaging, or assembling of DRAMS. Also included in the scope of this investigation are removable memory modules placed on motherboards, with or without a central processing unit, unless the importer of the motherboards certifies with the Customs Service that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this investigation does not include DRAMS or memory modules that are re-imported for repair or replacement.

The DRAMS subject to this investigation are currently classifiable under subheadings 8542.21.8005 and 8542.21.8021 through 8542.21.8029 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The memory modules containing DRAMS from the ROK, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this investigation remains dispositive.

Injury Test

Because the ROK is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''), the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from the ROK materially injure, or threaten material injury to, a U.S. industry. On December 13, 2002, the ITC made its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from the ROK of the subject merchandise. *See Drams and Dram Modules from Korea,* 67 FR 79148 (December 27, 2002).

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (''AUL'') of the renewable physical assets used to produce the subject merchandise. Section 351.524(d)(2) of the Department's regulations creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's

1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For DRAMS, the IRS Tables prescribe an AUL of 5 years. None of the responding companies or interested parties disputed this allocation period. Therefore, we have used the 5-year allocation period for all respondents. *See,* also, February 24, 2003 memorandum to the file entitled ''Average Useful Life,'' which is on file in the Department's CRU.

Discount Rates and Benchmarks for Loans

Pursuant to 19 CFR 351.524(d)(3)(i), the Department will use, when available, the company-specific cost of long-term, fixed-rate loans (excluding loans deemed to be countervailable subsidies) as a discount rate for allocating non-recurring benefits over time. Similarly, pursuant to 19 CFR 351.505(a), the Department will use the actual cost of comparable borrowing by a company as a loan benchmark, when available. Section 351.505(a)(2) of the Department's regulations defines a comparable commercial loan as one that, when compared to the loan being examined, has similarities in the structure of the loan (*e.g.*, fixed interest rate v. variable interest rate), the maturity of the loan (*e.g.*, short-term v. long-term), and the currency in which the loan is denominated. In instances where no applicable company-specific comparable commercial loans are available, 19 CFR 351.505(a)(3)(ii) allows the Department to use a national average interest rate for comparable commercial loans.

Hynix and SEC reported that they had the following types of loans outstanding from the GOK or GOK-owned banks, ROK financial institutions, overseas creditors, or foreign banks with branches in the ROK during the POI: (1) Long-term fixed- and variable-rate foreign currency loans; (2) Long-term fixed- and variable-rate won-denominated loans; (3) short-term fixed-rate won-denominated loans; and (4) short-term fixed-rate foreign currency loans. Some of these loans were received prior to 1992. Hynix also received non-recurring benefits during the POI, as discussed in the ''Analysis of Programs'' section, below.

We are using the following benchmarks and discount rates for this preliminary determination:

Discount Rates and Benchmarks for Long-Term Loans

The Department has previously determined that the GOK directed the lending practices of financial institutions in the ROK through 1991. *See, e.g., Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR 37338, 37339 (July 9, 1993) (''*Certain Steel*''); *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000) (''*Structural Beams*''); and *Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea*, 67 FR 62102 (October 3, 2002) (*''Cold-Rolled Steel''*). Given the GOK's direction of banks, we determined that the best indicator of the commercial, long-term borrowing rate in the ROK through 1991 was the three-year corporate bond rate on the secondary market. No party in this proceeding has submitted new evidence that would lead us to reconsider this benchmark. Therefore, for the preliminary determination, we are using the three-year corporate bond rate on the secondary market as our benchmark to calculate the benefits which the respondent companies received from domestic won-denominated loans obtained prior to 1992 that were still outstanding during the POI.

In subsequent determinations, the Department found that the GOK controlled directly or indirectly the lending practices of most sources of credit in the ROK between 1992 and 2000. *See, e.g., Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea,* 64 FR 15530 (March 31, 1999) (*''Plate in Coils''*); *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 64 FR 73276 (December 29, 1999) (*''CTL Plate''*); and *Structural Beams.* In *Plate in Coils,* the Department further determined that the GOK does not exercise direct or indirect control over ROK branches of foreign commercial banks. Also, in *Cold-Rolled Steel*, we found that, subsequent to April 1999, companies no longer needed approval from the GOK to access direct foreign loans or issue foreign securities. Thus, we found that these types of loans were not countervailable and, thus, also normally represented an appropriate benchmark.

As explained below in the ''Direction of Credit and Other Financial Assistance'' discussion in the ''Analysis of Programs'' section, based upon these earlier findings and updated information, we have preliminarily determined in this investigation that: (1) The GOK still exercised substantial control over most lending institutions in the ROK from 1992 through 1998, and (2) that the GOK directed credit to Hynix during the period January 1999 through June 30, 2002. Moreover, consistent with our determinations in *Plate in Coils* and *Cold-Rolled Steel,* we continue to find that the government did not exercise direct or indirect control over ROK branches of foreign commercial banks, direct foreign loans obtained after April 1999, and foreign securities issued after April 1999. Thus, we have generally continued to utilize such loans as benchmarks for SEC and Hynix, when available.

Based on the above, we are using the following benchmarks for the preliminary determination to calculate the benefits conferred by GOK-directed long-term loans obtained since 1992 which are still outstanding during the POI:

- For countervailable foreign-currency denominated long-term loans for creditworthy companies, we used, where available, the company-specific, weighted-average interest rates on the companies' comparable commercial foreign currency loans from foreign bank branches in the ROK. If this type of benchmark was unavailable, then, consistent with past cases (*see, e.g., Cold-Rolled Steel*), we relied on lending rates as reported by the International Monetary Fund's (''IMF'') *International Financial Statistics Yearbook*.
- For countervailable won-denominated long-term loans for creditworthy companies, we used the company-specific corporate bond rate on the companies' won-denominated public and private bonds, where available. Use of this benchmark is consistent with *Plate in Coils*, 64 FR at 15531, in which we determined that the GOK did not control the ROK domestic bond market after 1991. Where company-specific rates were not available, we used the national average of the yields on three-year won-denominated corporate bonds as reported by the Bank of Korea (''BOK''). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in *Plate in Coils,* 64 FR at 15532, in which we determined that, absent company-specific interest rate information, the won-denominated corporate bond rate is the best indicator of the commercial long-term borrowing rate for won-denominated loans in the ROK.
- Finally, because we have preliminarily determined that Hynix was uncreditworthy from January 1, 2000 through June 30, 2002 in accordance with 19 CFR 351.524(d)(3)(ii) (*see, infra* section on ''Creditworthiness''), we have calculated

for Hynix only long-term uncreditworthy benchmarks and discount rates for 2000 through June 30, 2002. According to 19 CFR 351.505(a)(3)(iii), in order to calculate these rates, the Department must specify values for four variables: (1) The probability of default by an uncreditworthy company; (2) the probability of default by a creditworthy company; (3) the long-term interest rate for creditworthy borrowers; and (4) the term of the debt. For the probability of default by an uncreditworthy company, we have used the average cumulative default rates reported for the Caa-to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998). For the probability of default by a creditworthy company, we used the cumulative default rates for investment grade bonds as published in Moody's Investor Service, ''Statistical Tables of Default Rates and Recovery Rates'' (February 1998). For the long-term interest rate that would be paid by a creditworthy company, we are using (1) the national average of the three-year ROK won corporate bond rate as published by the BOK for won-denominated foreign currency loans and for the discount rate, and (2) the IMF's *International Financial Statistics Yearbook* for foreign-currency denominated long-term loans. For the term of the debt, we used 5 years because all of the non-recurring subsidies examined were allocated over a 5-year period, as discussed in the ''Allocation Period'' section, above.

Benchmarks for Short-Term Loans

As discussed below in the ''Direction of Credit and Other Financial Assistance'' section, we have found that the GOK directed credit for all loans to Hynix during the POI. Thus, we cannot rely on Hynix'' company-specific commercial won-or foreign currency-denominated loans outstanding during the POI as our benchmark. Instead, for those programs requiring the application of a short-term, fixed, won- or foreign currency-denominated interest rate benchmark, we used the money market rates as reported in the IMF's *International Financial Statistics* in accordance with 19 CFR 351.505(a)(3)(ii).

Equityworthiness

Section 771(5)(E)(i) of the Act and 19 CFR 351.507 state that, in the case of a government-provided equity infusion, a benefit is conferred if an equity investment decision is inconsistent with the usual investment practice of private investors. According to 19 CFR 351.507, the first step in determining whether an equity investment decision is inconsistent with the usual investment practice of private investors is examining whether, at the time of the infusion, there was a market price for similar, newly-issued equity. If so, the Department will consider an equity infusion to be inconsistent with the usual investment practice of private investors if the price paid by the government for newly-issued shares is greater than the price paid by private investors for the same, or similar, newly-issued shares.

If actual private investor prices are not available, then, pursuant to 19 CFR 351.507(a)(3)(i), the Department will determine whether the firm funded by the government-provided infusion was equityworthy or unequityworthy at the time of the equity infusion. In making the equityworthiness determination, pursuant to 19 CFR 351.507(a)(4), the Department will normally determine that a firm is equityworthy if, from the perspective of a reasonable private investor examining the firm at the time the government-provided equity infusion was made, the firm showed an ability to generate a reasonable rate of return within a reasonable time. To do so, the Department normally examines the following factors: (1) Objective analyses of the future financial prospects of the recipient firm; (2) current and past indicators of the firm's financial health; (3) rates of return on equity in the three years prior to the government equity infusion; and (4) equity investment in the firm by private investors.

Section 351.507(a)(4)(ii) of the Department's regulations further stipulates that the Department will ''normally require from the respondents the information and analysis completed prior to the infusion, upon which the government based its decision to provide the equity infusion.'' Absent an analysis containing information typically examined by potential private investors considering an equity investment, the Department will normally determine that the equity infusion provides a countervailable benefit. This is because, before making a significant equity infusion, it is the usual investment practice of private investors to evaluate the potential risk versus the expected return, using the most objective criteria and information available to the investor.

The equityworthiness analysis relating to Hynix' debt-to-equity conversions as part of the Hynix October 2001 Restructuring program is located in the ''Analysis of Programs'' section, below.

Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources. *See* 19 CFR 351.505(a)(4). According to 19 CFR 351.505(a)(4)(i), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. In making this determination, according to 19 CFR 351.505(a)(4)(i), the Department normally examines the following four types of information: (1) The receipt by the firm of comparable commercial long-term loans; (2) present and past indicators of the firm's financial health; (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position.

With respect to item number one, above, pursuant to 19 CFR 351.505(a)(4)(ii), in the case of firms not owned by the government, the receipt by the firm of comparable long-term commercial loans, unaccompanied by a government-provided guarantee (either explicit or implicit), will normally constitute dispositive evidence that the firm is not uncreditworthy. However, according to the *Preamble* to the Department's regulations, in situations, for instance, where a company has taken out a single commercial bank loan for a relatively small amount, where a loan has unusual aspects, or where we consider a commercial loan to be covered by an implicit government guarantee, we may not view the commercial loan(s) in question to be dispositive of a firm's creditworthiness. (*See Countervailing Duties; Final Rule,* 63 FR 65348, 65367 (November 28, 1998) (''*Preamble*'').)

In the *Initiation Notice,* we indicated that we would investigate Hynix'' creditworthiness in 2000 through 2002. As discussed in the March 31, 2003 memorandum entitled ''Creditworthiness'' (''*Creditworthiness Memo*'') (which is on file in the Department's CRU), we have found Hynix to be uncreditworthy in 2000 through June 2002. Therefore, we have used an uncreditworthy benchmark rate in calculating the benefit from loans received during this time period, and have also used an uncreditworthy discount rate in calculating any non-

recurring benefits received by Hynix that were allocable to the POI.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined to Be Countervailable

A. Direction of Credit and Other Financial Assistance

The GOK's Credit Policies Through 1998

As discussed above in the ''Discount Rates and Benchmarks for Loans'' section, the Department has examined the issue of whether the GOK controlled the lending practices of banks in the ROK in past cases. For the period through 1991, we determined that the GOK's direction of credit policies resulted in countervailable subsidies to the ROK steel industry. See, *e.g., Certain Steel, CTL Plate,* and *Structural Beams.* In subsequent determinations, the Department found that the GOK continued to control, directly and indirectly, the long-term lending practices of most sources of credit in the ROK through 1998. *See Plate in Coils* and *CTL Plate* for our findings regarding 1997 and 1998, respectively.

Although we determined that the GOK directed the provision of loans by ROK banks in *Plate in Coils* and the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30636, 30639 (June 8, 1999) (''*Sheet and Strip*''), we concluded that loans from Korean branches of foreign banks (*i.e.*, branches of U.S. and foreign-owned banks operating in Korea) did not confer countervailable subsidies. This determination was based upon our finding that credit from ROK branches of foreign banks was not subject to the government's control and direction. Additionally, because these loans were not directed or controlled by the GOK, we used them as benchmarks to establish whether loans from domestic banks conferred a benefit upon respondents.

We provided the respondents in the current proceeding an opportunity to present new factual information concerning the GOK's direction of long-term lending during this previously-examined period. No party contested or provided new information challenging the Department's findings prior to 1998. Moreover, although certain respondents indicated that they were challenging the Department's finding for 1998, the respondents have not provided any new information that has not already been closely examined in past proceedings (*e.g., CTL Plate* and *Structural Beams*). Therefore, we preliminarily determine that the GOK controlled, directly and indirectly, the long-term lending practices of most sources of lending in the ROK through 1998, with the exception of loans from Korean branches of foreign banks, as noted above, and, consequently, that the GOK entrusted and directed these banks to make loans as directed by the GOK.

Specificity

In the above-cited proceedings, we determined that government-directed loans provided a countervailable subsidy to the ROK steel industry. For the reasons explained below, we have preliminarily determined in this proceeding that the GOK also directed loans to the semiconductor industry through 1998.

In *Structural Beams* and *CTL Plate,* the Department found that the GOK directed credit to ''strategic'' industries, such as steel, automobiles, and consumer electronics, throughout the 1970s, 1980s, and 1990s. In 1976, it was clear that the semiconductor industry was one of the GOK's ''strategic'' industries and was designated to receive special treatment from the GOK, including loans. For example, in its Fourth Five-Year Plan, the GOK stated that ''the electronics industry will be promoted as a major export industry through the development of new technology products and the expansion of overseas sales activities * * * Semiconductors, computers and related items have been selected as strategic products.''

This plan gave rise to the publicly financed Korea Institute of Electronics Technology (''KIET''). The KIET's primary function was to plan and coordinate semiconductor research and development; import, assimilate, and disseminate foreign technologies; provide technical assistance to Korean firms; and conduct market research. According to an October 1991 study, KIET essentially jump-started the semiconductor industry in the ROK and paved the way for SEC, HEI, and Goldstar Electron to enter the market as major DRAMS producers. In addition, the Heavy and Chemical Industry plans of 1974 and 1976 identified six strategic industries (chemicals, electronics, machinery, non-ferrous metals, and steel) which the GOK would support financially to ''raise the selected industries'' competitiveness and, consequently, to increase their exports.''

For the next two decades, the semiconductor industry was repeatedly identified in national economic and development plans, as well as in industry promotion plans, as a ''strategic'' industry that would receive ''a wide range of fiscal and financial investment incentives.'' Other examples of such policies include the Fifth Five-Year Economic and Social Development Plan (1981) and the Sixth Five-Year Economic and Social Development Plan (1986).

In *Structural Beams,* we found that, after the removal of the de jure preferences for ''strategic'' industries in 1985, the GOK continued to channel billions of dollars in lending into sectors favored by the government's industrial policies. We also found that, throughout the 1990s, ''bankers in Korea {believed} that the {Korea Development Bank (''KDB'')} is still known for preferring the semiconductor, shipbuilding, and steel industries.'' (*See Structural Beams* June 7, 2000 memorandum to the file, ''Direction of Credit in Korea: Structural Steel Beams from the Republic of Korea,'' the public version of which is included as an appendix to the March 31, 2003 memorandum entitled ''Direction of Credit Citations'' (*''Direction Citations Memo''*), which is on file in the Department's CRU.)

In this investigation, there is substantial evidence illustrating the GOK's continued favoritism toward the semiconductor industry well after 1985. The GOK's Seven Year High Technology Development Plan (1990) (*''Seven Year Plan''*) called for U.S. Dollar (''USD'') 1.83 billion for the development of semiconductors, tax incentives to encourage private-sector investment, and the building of an industrial estate for the assembly of semiconductors, computers, and optical equipment. The *Seven Year Plan* also identified 16 and 64 megabit DRAMS for development through government-industry cooperation. Under the *Seven Year Plan,* the Highly Advanced National program (''HAN'') was established to support the production of 256 megabit DRAMS by 1996 and one gigabit DRAMS by 2000 with USD 4.9 billion in government expenditures through 2001.

In 1994, the Ministry of Trade, Industry, and Energy (''MOTIE'') announced its selection of five strategic investment sectors (semiconductors, liquid crystal displays (''LCD''), aircraft, satellites, and machine tools) to receive government support. ''As for the semiconductor industry, 46.9 billion won will be spent on {research and development (''R&D'')} for a 256-{megabit} DRAM this year and 20

billion won for LCD research. Of these amounts, 19.2 billion won and 10 billion won, respectively, will be extended from the government budget. By 1997, a total of 195.4 billion won * * * are to be invested in {semiconductors}.'' In a July 1997 interview, the Director General of the Electronics, Textile, and Chemical Industry Bureau of MOTIE stated, ''{t}he government's long-term strategy calls for {the ROK} becoming the world's largest producer of semiconductor chips in the year 2010.''

Moreover, in *Structural Beams,* we found that the KDB provided a significant amount of the lending to ''strategic'' industries, such as steel, throughout the 1990s. Therefore, as in Structural Beams, in the instant investigation we reviewed a list of the largest recipients of KDB financing within the manufacturing sector in 1992 through 1997 as part of our specificity analysis. For this investigation, we requested similar information regarding the distribution of loans to industry sectors by specific institutions, including the KDB, and the Korean financial sector as a whole. The GOK provided information for 1997 and 1998 for broad industry sectors such as ''Pulp, Paper, and Paper Products,'' and ''Radio, Television, and Communication Equipment,'' which includes semiconductors. The GOK stated that it was unable to provide loan information on a more specific basis. Because this information does not cover the period we are examining in full, and because it is overly broad to use in our normal specificity analyses under 771(5A) of the Act, we intend to seek more detailed information during verification with respect to lending distribution in the ROK.

Notwithstanding the limited KDB lending data, we find that there is sufficient information on the record demonstrating the GOK's designation of the semiconductor industry as a ''strategic'' industry. Specifically, the GOK's national economic and development plans, as well as industry promotion plans, from the late 1970s through 1998, identified the semiconductor industry as a ''strategic'' industry.

Therefore, based on the above information, we preliminarily determine that the GOK directed credit specifically to the semiconductor industry through 1998 within the meaning of section 771(5A) of the Act.

The GOK's Involvement in the ROK Lending Sector from 1999 Through June 30, 2002

The Department has also addressed GOK direction of credit in the years subsequent to 1998. In the *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From the Republic of Korea,* 67 FR 1964 (January 15, 2002) and *Cold-Rolled Steel,* we provided the respondents with an opportunity to present new factual information concerning the government's credit policies in 1999 and 2000, respectively. No party provided any new information on the GOK lending policies for domestic banks in either case. Therefore, we determined in those cases that long-term lending from domestic commercial banks and from specialized banks, such as the KDB, was directed by the GOK in 1999 and 2000, respectively.

Additionally, with respect to direct foreign loans (*i.e.*, loans from offshore banks) and offshore foreign securities issued by ROK companies, we found that, subsequent to April 1999, companies no longer needed approval from the GOK to access direct foreign loans or to issue foreign securities. *See Cold-Rolled Steel.* Thus, we determined that these loans were not directed or controlled by the GOK, and could serve as benchmarks. No party has challenged this past finding.

In the instant investigation, the petitioner has alleged that the GOK continued to influence and direct the practices of lending institutions in the ROK through the POI, and that the semiconductor sector received a disproportionate share of the benefits provided pursuant to this direction, resulting in the conferral of countervailable benefits on the producers/exporters of the subject merchandise. The petitioner has also alleged that, if the Department does not find that the semiconductor industry received a disproportionate share of financing during this period, this directed credit was specific to Hynix. The petitioner asserts, therefore, that the Department should countervail all loans and benefits from GOK owned/controlled/directed institutions that were received by the producers/exporters of the subject merchandise, or all loans and benefits received specifically by Hynix, obtained during this period that were outstanding during the POI.

We provided the respondents in this proceeding an opportunity to present new factual information concerning the GOK's credit practices from 1999 through June 30, 2002 which we would consider along with our findings in the above-noted prior investigations. Certain respondents challenged the Department's prior direction of credit findings for 1999 and 2000. Parties in this investigation also presented information concerning the GOK's role in the ROK financial lending sector from 2001 through June 30, 2002.

Because of the Department's prior determinations that the GOK controlled and directed credit provided by most ROK banks through 2000, discussed above, the burden of demonstrating that the GOK has changed its practices is placed, in large part, upon the respondents. Moreover, with respect to 1999 and 2000, because the Department has previously found that the GOK directed credit provided by most ROK banks in those years, new information or evidence of changed circumstances must be presented before the Department will revise or change its previous findings.

In its response, the GOK argued that the post-1997 financial reforms instituted following the ROK financial crisis have led to the liberalization of the ROK financial sector, and that the GOK did not direct credit provided by domestic and government-owned banks from 1998 through the end of the POI. The GOK has also placed new information on the record to support its claim. As noted above, the Department has already addressed the impact of these reforms in 1998 in *CTL Plate* and *Structural Beams.* However, for the subsequent period, the GOK has submitted new information which we have analyzed to determine whether the GOK continued to direct credit from 1999 through June 30, 2002.

In our analysis, we have distinguished between banks that are themselves government authorities within the meaning of section 771(5)(B) of the Act and commercial banks that are not considered to be government authorities. In *CTL Plate* and *Structural Beams,* we found that, although changes had been made to the legislation regulating government-controlled specialized banks, such as the KDB, in the aftermath of the financial crisis, the respondents did not provide any evidence to demonstrate that the KDB has discontinued its practice of selectively making loans to specific firms or activities to support GOK policies.

Record evidence from the instant investigation indicates that the KDB and other specialized banks, such as the Industrial Bank of Korea (''IBK''), continue to be government authorities within the meaning of section 771(5)(B)

of the Act. The term ''authority'' is defined in section 771(5)(B) of the Act as ''a government of a country or any public entity within the territory of the country.'' As stated in the *Preamble* to the Department's regulations, ''* * * we intend to continue our longstanding practice of treating most government-owned corporations as the government itself.'' *See Preamble,* 63 FR 65402.

In order to assess whether an entity such as the KDB should be considered to be the government for purposes of countervailing duty investigations, the Department has in the past considered the following factors to be relevant: (1) Government ownership; (2) the government's presence on the entity's board of directors; (3) the government's control over the entity's activities; (4) the entity's pursuit of governmental policies or interests; and (5) whether the entity is created by statute. *See, e.g., Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada,* 57 FR 30946, 30954 (July 13, 1992); *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from the Netherlands,* 52 FR 3301, 3302, 3310 (February 3, 1987); and *Sheet and Strip*, 64 FR 30642–43.

According to the BOK in a February 2002 report on ROK financial institutions, most of the specialized banks are government-controlled banks. With regard to the KDB, all of the KDB's shares are held by the GOK. Additionally, according to the KDB Act, the KDB's purpose is ''the supply and management of major industrial funds to promote industrial development and the advancement of the national economy.'' All of KDB's senior management and its auditor are appointed by the ROK President or the Ministry of Finance and Economy (''MOFE''). KDB's annual business plan must be approved on an annual basis by the MOFE, and the KDB is supervised by the MOFE (except for prudential supervision, which is carried out by the Financial Supervisory Commission (''FSC'')). Any net losses suffered by the KDB are covered by the GOK according to Article 44 of the KDB Act.

The purpose of the IBK is ''to promote independent economic activities for small and medium enterprises and to enhance their economic status in the national economy.'' The majority of the IBK's shares are held by the GOK. The IBK's top officials are appointed by the ROK President or by a GOK ministry. According to the IBK Act, one of the IBK's activities is to ''perform business entrusted by the Government and public entities,'' and to ''achieve the purpose of the bank {as noted above} with the approval of the relevant Minister.'' The IBK's annual business plan and operations manual (including its lending methods) must be approved by the relevant minister. Any annual losses suffered by the IBK are covered by the GOK.

Based on this information and our past findings, we preliminarily determine that the KDB and the other specialized banks, such as the IBK, are government authorities. Hence, the financial contributions they made fall within section 771(5)(B)(i) of the Act.

As for the commercial banks in which the GOK owned a majority or minority stake, there is no evidence currently on the record that these entities are GOK authorities within the meaning of section 771(5)(B) of the Act. These banks act as commercial banks, and temporary GOK ownership of the banks due to the financial crisis is not, by itself, indicative that these banks are GOK authorities. Therefore, we must determine whether these banks, as well as other ROK lenders, were directed or entrusted by the GOK to provide funds to the respondents during the period 1999 through the end of the POI. *See* section 771(5)(B)(iii) of the Act.

In late 1997, the financial crisis that had been plaguing many countries in Asia came to a head in the ROK. A severe foreign exchange crisis, coupled with a sharp increase in interest rates and a drop in economic output, caused many large companies to be unable to meet their debt obligations and liquidity needs. As a result, many companies experienced serious financial difficulties, and many banks were weakened by the rapid increase in non-performing loans, a situation that threatened the stability of the financial system itself.

According to the GOK, this financial crisis in late 1997 brought about many market-oriented changes in the financial sector in the ROK. For example, as discussed in *CTL Plate* and *Structural Beams,* in January 1998, the GOK announced closure of some banks, and in April 1998, it launched the FSC which, according to the GOK, is a central government organization established for the purpose of consolidating and improving the GOK's monitoring and supervision of financial institutions. (The FSC's authority was later expanded to also cover specialized banks.) According to the GOK, these changes were part of a larger package of reforms including legal, regulatory, and policy changes intended to transform the ROK financial sector into a better managed, better supervised, and more market-oriented sector of the economy.

As part of these reforms, in the period 1999 through 2002, several commercial banks in the ROK were closed or merged with other banks. The closure of weak financial institutions was, according to the GOK, one of the most dramatic policy changes in the ROK. The GOK also points to the opening of the financial markets to foreign ownership and investment as another major change. For example, majority ownership of Korea First Bank (''KFB'') was sold to a foreign investor, and shares in other banks, such as Korea Exchange Bank (''KEB''), were sold to foreign investors. Additionally, the GOK worked to tighten rules on accounting and best practices by applying international standards.

Finally, as noted above, the GOK implemented many new laws, regulations, and practices with regard to the financial system. In May 1999, the KDB Act was amended to entrust the FSC with regulatory oversight of KDB's financial prudentiality. In January 2000, the Depositor Protection Act was revised to ensure that officers and employees of financial institutions that are responsible for financial troubles of their employer can be required to compensate the financial institution for damages. The Bank Act was also revised to set forth procedures for the licensing and supervision of banks. In March 2000, the KDB enforcement decree was amended to expand to the KDB the loan exposure limits that applied to other banks. In October 2000, the Corporate Restructuring Vehicle Act was enacted to facilitate the resolution of bad loans held by financial institutions. The Financial Holding Company Act was also enacted, which established financial holding companies in the ROK for the first time. In November 2000, Prime Minister's Decree, Instruction No. 408 (''*Prime Minister's Decree*''), was issued, stating that government officials at financial supervisory organizations, such as the MOFE and the FSC, were not to interfere in the operations of commercial and specialized banks.

In December 2000, the Public Funds Management Act was enacted to enhance transparency in the use of public funds. The Depositor Protection Act was also revised to allow the Korea Deposit Insurance Corporation (''KDIC'') to request information directly from banks, and to request assistance from the FSC if a financial institution looks as if it may become insolvent. In September 2001, the Corporate Restructuring Promotion Act (''CRPA'') was enacted to allow creditor banks to initiate prompt restructuring measures against potentially insolvent companies and to provide a more formal framework

for creditor financial institutions to work together. In April 2002, the Banking Act was revised to relax restrictions placed on bank ownership.

As is evidenced by the above-noted changes in the ROK financial system since the 1997 financial crisis, the GOK has taken many steps to reform the financial system in the ROK, steps for which the GOK has been widely praised. However, despite the changes noted above, events in the ROK financial system have led the GOK to continue its involvement there. Specifically, in the aftermath of the financial crisis, many corporations have suffered from liquidity problems, especially as loans and other debt incurred during or after the financial crisis have begun to mature. These financial problems in the corporate sector necessarily have had a great impact on the creditors holding the outstanding liabilities of these corporations. Because many banks have suffered their own liquidity crises in light of the troubles in the corporate sector due to their debt holdings in these troubled companies, record evidence indicates that the GOK has inevitably had to stay closely involved in the financial system in order to ensure stability while corporate restructuring continues, and that the GOK's role exceeded the understandable function of financial supervision.

For example, record evidence indicates that the GOK had to inject trillions of won into ROK banks to keep them solvent following the financial crisis. According to an August 2001 Bank for International Settlements paper, this type of support was ''inevitable and necessary in order to ensure the soundness of the financial system and to prevent systematic risk in the process of financial sector restructuring.'' As a result of these recapitalizations, many commercial banks have been nationalized by the GOK, and the GOK has become (and continued to be throughout the POI) the majority owner of several of the large ROK commercial banks, including Seoul Bank, the banks under the Woori Financial Holding Company umbrella (including Peace, Kwangju, and Kyongnam banks), Woori Bank (formerly Hanvit Bank), and Cho Hung Bank (although we note that there is conflicting information on the record with respect to bank ownership by the GOK during the POI). Moreover, in 2001, the BOK increased the aggregate credit ceiling in order to provide more funds to financial institutions to encourage the financial institutions to provide loans to the corporate sector. In doing so, the BOK also adjusted the method of allocation in such a way as to supply more aggregate credit at low interest rates to financial institutions that expanded corporate lending.

While we do not contend that the GOK's ownership of ROK banks is by itself dispositive of the GOK's involvement in the banks' lending decisions, banks that are owned, in whole or in part, by the GOK are subject to the influence of their majority or minority shareholders. This point was made, for example, by a Morgan Stanley executive director and ROK chief, who stated in a September 2001 *Asiamoney* article regarding ongoing discussions relating to a potential debt-for-equity swap involving Hynix and its creditors (which eventually took place in Hynix's October 2001 restructuring) that ''if creditor banks go down that road, there would be speculation that the decision was made in conjunction with the government.'' He continued, ''{a}lthough Hynix argues that the creditors arrived at their decision {to participate in the debt-to-equity conversion} purely on economic grounds, the fact that most of them are state-owned does infer government intervention.'' Thus, the GOK's ownership position in certain banks indicates that the GOK does have an impact on lending decisions of certain government-owned banks.

Along with its increased ownership in the banks, the GOK's dual role as owner and regulator can also be seen as evidence of the GOK's influence over bank lending decisions. For instance, in July 2001 articles in the *International Herald Tribune* and the *New York Times,* Stanley Fischer, an IMF official who was an architect of the IMF's restructuring plan in the ROK, was quoted as saying that the GOK needed to get itself out of the financial sector and should stop supporting failing banks and corporations. With regard to the GOK, he stated that ''they have got to get themselves out of the financial sector'' and that ''{t}here is a conflict of interest between the government as an owner and the government as a supervisor.'' This view was also reflected in the August 2, 2001 IMF Public Information Notice (No. 01/79), which is included as an appendix to the *Direction Citations Memo* on file in the Department's CRU. In the notice, which was prepared as part of the IMF's post-crisis monitoring program, IMF directors expressed concern that ''the role of the government as part-owner and supervisor of financial institutions, coupled with a significant role as guarantor of corporate debt, would hinder the pace of restructuring and risk impeding the development of a sound commercial banking system and a thriving capital market.'' There is also evidence on the record that the GOK has given authoritative instructions to financial institutions, including those involved in supporting Hynix. According to a November 2001 paper prepared by a World Bank employee, ''press reports that the {Financial Supervisory Service (''FSS'') (the FSC's enforcement body)} had instructed creditor banks to classify Hynix loans as normal further highlight the conflicts of interest that can arise when a financial supervisor is tasked with managing corporate/financial sector restructuring in a systemic crisis.'' The same World Bank report states that ''it is reported in the press that the FSS—in contravention of its duty to safeguard the soundness of {the ROK's} financial sector—has been pressuring financial institutions to extend credits to distressed companies as promised in {out-of-court} workout {Memoranda of Understanding (''MOU'')}.''

Additional information on the record suggests that the corporate restructuring mechanism for distressed firms in the ROK would continue to require additional reforms to ensure that corporate workouts are conducted on commercial terms and without government intervention. In particular, the IMF took issue with the ROK's record with ''out-of-court'' workouts, suggesting that greater reliance should be put on court-supervised insolvency in order to accelerate the restructuring of distressed companies, and stressing the need for additional insolvency reform. In this context, the IMF directors ''urged the authorities to refrain from pushing creditors into bailing out troubled companies * * *.'' *See* February 1, 2001 IMF Public Information Notice (No. 01/8), which is included as an appendix to the *Direction Citations Memo* on file in the Department's CRU. The directors noted that some government intervention in the financial markets may have been justified as long as these measures were transitory, kept distortions to a minimum, were limited to viable firms with temporary problems, and avoided the perception that some companies are ''too big too fail.'' *Id.* The Directors concluded that the basic restructuring framework was largely in place, but that it was now critical ''for the government to step back from intervening in the operation of markets and economic decision making, and instead rely in the future on markets in imposing discipline.'' *Id.*

Even a year later, the IMF directors found that, while some progress in corporate restructuring had been made,

the corporate sector remained ''beleaguered'' by the continued operation of loss-making companies. In particular, the directors ''stressed that the orderly exit of nonviable companies should be accelerated, and that state-owned banks, in particular, need to accept reductions on their claims, including by allowing a company to be liquidated if losses become unmanageable.'' *See* February 12, 2002 IMF Public Information Notice (No. 02/09), which is included as an appendix to the *Direction Citations Memo* on file in the Department's CRU.

The GOK has claimed that the GOK-owned banks make their lending and credit decisions based on commercial criteria. However, there is information on the record indicating that the GOK continues to direct, and otherwise apply pressure to, certain ROK lenders with regard to their lending and credit decisions. Specifically, there are numerous reports on the record that indicate that the GOK was involved in certain bank lending and credit decisions during the POI to ensure that debt-ridden companies, particularly Hynix and other current or former Hyundai Group affiliates, would have access to financing or other funds provided by the banks.

For example, in September 2002, an ROK National Assembly member chastised the GOK in a press statement for compelling financial institutions to support the Hyundai Group and Hynix since the beginning of Hyundai's liquidity crisis in mid-2000. The report stated ''{f}or two years following the outbreak of liquidity crisis in the Hyundai Group, the government of Dae-Joong Kim has provided astronomical sums of special support to the Hyundai Group, amounting to a total of 33.6 trillion won by mobilizing the resources of financial and government-run institutions.''

A January 2001 *Wall Street Journal* article states that ROK banks have ''been more accustomed to following government orders than making sound credit decisions.'' It further states that, when KFB (a bank that is 51 percent foreign-owned) refused to participate in a GOK debt restructuring program (that was focused primarily on Hyundai Group companies) at the request of the FSS, the FSS applied pressure to KFB and ''strongly urged'' KFB to participate in the plan lest it risk losing some of its clients. Commenting on this, an executive at a GOK-owned bank said that the nationalized banks were ''green with envy,'' as ''nobody wants to increase their exposure to these corporations that still have a long way to get their acts together.'' The article states that the FSS asked creditor banks to participate in this program, and only KFB refused.

An April 2001 *Korea Herald* article notes that the FSS threatened to fine Hana Bank if it failed to provide emergency liquidity to Hyundai Petrochemical, which was a part of the Hyundai Group that was going through the corporate workout process. In a June 2001 *Dow Jones International* news article, it was reported that KorAm Bank reversed its decision not to participate in the Hynix June 2001 convertible bond offering after the FSS warned of a possible sanction against KorAm if it did not participate. In February 2001, the managing director at UBS Warburg in Seoul stated that ''the impression that we get is that while the government claims {the banks} are totally independent, behind-the-scenes pressure is being applied so that they lend to certain entities.'' In July 2001, with regard to corporate restructuring packages, an official at the MOFE stated that ''we've decided to force all creditor financial institutions {both local and foreign} to take part in {creditor} meetings in order to prevent some of them from refusing to attend and pursuing their own interests by taking advantage of bailout programs.''

According to a July 2002 *Institutional Investor International* article, ''{}among the biggest concerns is the true extent of banking independence. Yes, there are plenty of signs that this autonomy holds sway—notably, KFB's stance toward the *chaebol*.'' The article continues, stating that although GOK officials state that there is no government pressure at all, not everyone is convinced. ''The government has changed its policies quite a bit, but it still may assert influence,'' said a Credit Suisse First Boston (''CSFB'') senior economist in Hong Kong. ''Nobody can rule out intervention.'' According to a March 2002 *New York Times* article, ''{m}any analysts say that privatization is needed to foster management independence and lending discipline. ''There's a suspicion that the government mucks around with the banks,'' said an analyst at the IMF. With one-quarter of Korean companies losing money, he said, banks often face political pressure to keep them on life support.'' Finally, an April 2001 *Korea Times* article notes: ''{W}hether the Kim administration likes it or not, the Korean banks are now under tight state control. The government jawboned banks to bail out insolvent firms, including Hyundai Engineering and Construction {(''HEC'')}. The independence of the central bank was compromised, as the {BOK} must get approval for its budget from the {MOFE}.''

(For a more detailed list of record information on the issue of direction, *see Direction Citations Memo*, noted above, which is on file in the Department's CRU.)

Moreover, although the GOK states that it has taken affirmative measures, such as the *Prime Minister's Decree*, to ensure that government officials at financial supervisory organizations do not interfere in the operations of commercial and specialized banks, record evidence indicates that GOK interference has continued, in some instances, and that the *de jure* measures contain sufficient ambiguities which would allow the GOK to become involved in the banking system. For instance, the *Prime Minister's Decree* at Article 5 states that the financial supervisory agencies can request cooperation from financial institutions for the purpose of the stability of the financial market, or to attain the goals of financial policies. As noted above, the financial system in the ROK has been going through a crisis that could be the type of situation in which this exception would be applied. A further exception that would allow GOK influence over the banks is included in Article 6 of the *Prime Minister's Decree*. Article 6 states that ''the Minister of MOFE and KDIC shall, *unless they exercise their rights as shareholders of any of the Financial Institutions*, procure that the Financial institution, which was invested by the {GOK} or KDIC, can be operated independently under the direction of the Board of Directors thereof'' (emphasis added). As noted above, because the GOK is part-owner in many commercial banks, an exercise of its shareholder rights could allow the GOK an opportunity to become involved in the operations of the banks.

Finally, Article 17 of the Public Fund Oversight Special Act stipulates that when the GOK provides public funds to a financial institution (such as the recapitalization of a bank as occurred several times during this period), the GOK will enter into an MOU which will set financial soundness, profitability, and asset quality targets, and will consist of a detailed implementation plan for implementation of these targets. Pursuant to Article 14, the GOK will review the implementation of this plan on a quarterly basis. The GOK in this manner can be directly involved in the fiscal operations of the bank.

Thus, although record evidence does indicate that the GOK's financial system reforms have been positive and are beginning to take hold, evidence on the

record indicates that, in certain instances, these reforms have yet to fully erase the GOK's direction of the banks, nor have they prevented the GOK from acting, through financial institutions involved in the ROK market, to ensure that Hynix received necessary financing. Therefore, based on the above, we preliminarily find that the GOK directed the lending and credit practices of certain sources of credit in the ROK from 1999 through June 2002 in limited situations, including the case of Hynix, as discussed below.

Before addressing the issue of whether credit is directed to a specific enterprise or industry in the ROK, we note that, in past cases, we have found that loans from ROK branches of foreign banks are not subject to the direction of the GOK. (*See, e.g., Plate in Coils* and *Cold-Rolled Steel*.) Specifically, we found that loans from Citibank were not directed by the GOK. (*See, e.g., Plate in Coils* memorandum dated March 4, 1999, ''Analysis Concerning Post 1991 Direction of Credit,'' which is included as an appendix to the *Direction Citations Memo* on file in the Department's CRU.) Based on these past findings, we have preliminarily determined that the lending and credit practices of Citibank are not directed by the GOK. However, we intend to seek further information with regard to Citibank prior to the final determination.

Specificity

As discussed above, we have preliminarily determined that the GOK directed credit to the semiconductor industry through 1998. However, for the period 1999 through June 30, 2002, record evidence in this proceeding indicates that the GOK directed or provided loans and other benefits to a specific company or group of companies. The group of companies to which the GOK directed or provided loans during this period comprises companies that continue to be or were part of the Hyundai Group, including one of the respondents in this proceeding, Hynix.

As evidenced by many of the articles cited above regarding GOK direction of credit in this period, many of the statements that were made relating to government instructions to, and pressure on, banks related to financing for Hyundai Group companies or Hynix, or programs, such as the Fast Track program, discussed below, that were directed to Hyundai Group companies.

For example, as discussed above, in September 2002, a National Assembly member spoke out against the GOK's direction of credit to the Hyundai Group companies. However, National Assembly members were not the only ones speaking of this practice. The official response to the National Assembly Report from President Kim's office was as follows: ''{w}e are doing what is deemed necessary to save companies leading the country's strategic industries.'' Another Blue House official said in January 2001 that ''Hyundai is different from Daewoo. Its semiconductors and constructions are Korea's backbone industries. These firms hold large market shares of their industries, and these businesses are deeply-linked with other domestic companies. Thus, these firms should not be sold off just to follow market principles.''

In January 2001, the *Korea Times* stated that ''cash-starved {Korean} companies claimed that the government's measures were only aimed at certain larger companies such as {Hyundai Merchant Marine, Co. Ltd (''HMM'')}, HEI, and Korea Industrial Development.'' According to a March 2001 article in the *Korea Herald*, ''{o}nce again, the government appears to have backtracked on reform pledges, as it allegedly forced creditors to extend trillions of won in fresh financial aid to three Hyundai Group firms—{HEI, HEC}, and Hyundai Petrochemical.'' And in May 2001, a senior KEB official stated that ''{i}f Hynix is placed under receivership, Korea's exports will be severely battered {because} Hynix accounts for 4 percent of exports. As far as I know, the government is now working out a series of powerful measures to ensure the survival of Hynix Semiconductor.''

The National Assembly member, quoted above, charged that the GOK provided ''astronomical sums of special support to the Hyundai Group, amounting to a total of 33.6 trillion won by mobilizing the resources of financial and government-run institutions'' from May 2000 to June 2002. The National Assembly Report relied on data relating to the corporate restructuring measures taken by the following Hyundai Group companies from May 2000 through June 2002: HEC, Hynix, Hyundai Petrochemical Co., Ltd., and HMM (collectively, ''Hyundai Group''). During this period, ROK financial institutions participated in the Hyundai Group's restructuring measures, which included new loans, equity swaps, the acceleration of debt acquisition, the extension of debt maturities, convertible bond purchases, and debt exemptions for a total of 244,106 billion won; the total for Hynix was 120,017 billion won. During the same period, GOK authorities (the KDB and the Export-Import Bank of Korea, among others) provided support to the Hyundai Group totaling 115,365 billion won (Hynix data is not reported separately from these figures). Hynix' share of restructuring measures from financial institutions accounted for nearly 50 percent of the Hyundai Group's total.

In considering whether this program was *de facto* specific, we are mindful of other scenarios where there have been debt restructuring programs in situations of national financial difficulty. For example, in the *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001) (''*Thai Hot-Rolled Steel*''), the Department found that a debt restructuring program was not specific to the respondent steel company because it was not limited to an enterprise or industry. There, the evidence showed that the program was broadly available across many industries, and the Department's evaluation showed that there was no predominant user or disproportionate share of the program, as well as other factors. (*See Thai Hot-Rolled Steel,* 66 FR 50410 and accompanying September 21, 2001 Decision Memorandum at Section III.A.4.) By contrast, here we find a number of indicators of ROK activity specifically focused on aiding Hynix and the Hyundai Group of companies.

Because record evidence indicates that the GOK's actions with respect to its direction of credit were specific to current or former Hyundai Group companies, we preliminarily find that this program is specific for Hynix pursuant to section 771(5A)(D)(iii)(I) of the Act. Further, we preliminarily determine that the GOK did not direct credit to SEC or the semiconductor industry as a whole during this period. Therefore, we preliminarily determine that any loans or other benefits provided to SEC during this period pursuant to the allegations of direction of credit are not countervailable according to section 771(5) of the Act.

Specific Financial Contributions Made Pursuant to the GOK's Direction of Credit

Having preliminarily determined that the GOK directed credit to the semiconductor industry through 1998, and to Hynix subsequently, we now examine the financial contributions made by the directed financial institutions and the benefits conferred by those financial contributions.

1. Hynix Financial Restructuring and Recapitalization

In the fall of 2000, because of the weakness in the ROK financial system in the wake of the 1997 financial crisis, many companies, like HEI, were continuing to have trouble securing financing for their operations or to refinance maturing debt. HEI, specifically, had serious looming financial troubles, with several trillion won in short-term debt that was coming due in 2001.

According to Hynix, and as further discussed below, the first step taken by HEI and its financial advisors, Citibank and Salomon Smith Barney (''SSB''), was to work with HEI's creditors to borrow funds to meet immediate liquidity needs. These funds were arranged for in December 2000 in the form of a won 800 billion syndicated bank loan, which was organized by Citibank. Hynix reports that this was a stop-gap measure to cover certain immediate financial needs while a more comprehensive restructuring and recapitalization plan was being developed and implemented. At the same time, HEI was also nominated by its creditors to participate in a new GOK program starting in January 2001, the KDB Fast Track Debenture Program (discussed in greater detail below). Also in January 2001, Hynix arranged with its creditors to secure an increase in its documents against acceptance (''D/A'') line of credit from USD 800 million to USD 1.4 billion.

In March 2001, as part of its corporate restructuring, HEI changed its name to Hynix. This step was taken in advance of its official August 2001 separation from the Hyundai chaebol. At the same time, a group of Hynix' 17 major creditors formed the first Hynix Creditors' Financial Institution Council (''Creditors'' Council''). According to the GOK, this Creditors' Council was based on the corporate workout process established by the GOK in June 1998 pursuant to the Corporate Restructuring Act (''CRA''), which was an informal agreement that comprised 210 ROK financial institutions. Under the CRA, the FSC would identify the lead creditor of the troubled corporation (normally the financial institution with the most outstanding debt). The lead creditor, which would be responsible for negotiating any corporate work-out terms, headed the Creditors' Council, a council made up of the troubled corporation's creditor banks. (In September 2001, the CRA was replaced by the CRPA, a more formal mechanism under ROK law which codified the corporate workout methods that were being utilized under the CRA.) However, although this Creditors' Council was based on the CRA councils, according to the GOK, it was not part of the CRA program but was a voluntary agreement among Hynix' creditors based on experience acquired while pursuing other workout agreements.

Hynix and SSB presented this Creditors' Council with an overall restructuring proposal for Hynix. This proposal included recapitalization in the form of a won 1 trillion convertible bond issuance and an issuance of USD 1.25 billion in common shares in the form of Global Depository Shares (''GDS''), and rescheduling and restructuring of Hynix' debt through maturity extensions and greater availability of short-term debt instruments. Hynix and its creditors formally agreed to this restructuring plan in May 2001. As a result, in June 2001, Hynix issued won 994.1 billion in convertible bonds, borrowed won 5.9 billion in the form of a separate loan, participated in a successful USD 1.25 billion GDS issuance on foreign and domestic capital markets, and had many of its maturing debts rescheduled or refinanced. Hynix also was able to continue to access short-term usance and overdraft financing.

Despite these restructuring efforts, by summer of 2001, it became apparent that more restructuring would be necessary due to the unexpectedly prolonged downturn in the DRAMS market and Hynix' continuing financial troubles. Thus, Hynix and its advisors worked with Hynix' creditors to develop a new restructuring package that was adopted in October 2001. As part of this package, which was negotiated pursuant to the new CRPA, Hynix' new CRPA Council developed three options for Hynix' creditors: (1) For creditors that agreed to extend new loans, the creditors could convert D/A balances to general long-term loans, swap convertible bonds and unsecured loans to new convertible bonds (which would be subsequently converted into equity), and refinance or extend the remaining loans; (2) creditors that did not agree to extend new loans, but did agree to the debt-to-equity conversion, could convert all of their secured loans and 28 percent of their unsecured loans into the convertible bonds that would subsequently be swapped for equity, with the remainder of the unsecured loans to be forgiven; (3) creditors that did not agree to either new loans or the debt-to-equity conversion could exercise their appraisal rights for all of their secured debt and 25 percent of their unsecured debt based on Hynix' liquidation value as of September 31, 2001 (as established by an external consultant), and have the remainder of the debt forgiven. The various creditors of Hynix selected among these options, with the result that won 2.993 trillion in debt was swapped for equity on December 6, 2001, won 1.45 trillion in debt was forgiven, some new loans were issued, and numerous loans were extended or refinanced.

As discussed above in the ''Direction of Credit and Other Financial Assistance section, we have preliminarily determined that the GOK directed Hynix' creditor banks to participate in these restructuring programs and to provide credit and other funds to Hynix in order to assist it through its financial difficulties. As indicated in the overview of the Hynix restructurings, the financial assistance provided to Hynix by its creditors took various forms. We preliminarily determine that these different means of supporting Hynix were financial contributions as described in section 771(5)(D) of the Act. Specifically, the loans, convertible bonds, extensions of maturities (which we view as new loans), D/A financing, usance financing, overdraft lines, debt forgiveness, and debt-for-equity swaps are direct transfers of funds from the GOK-directed financial institutions to Hynix. (*See* section 771(5)(D)(i) of the Act.)

We determined the benefits to Hynix from the various instruments as follows:

- For the long-term loans and new bonds that were issued as part of the restructuring program, we compared the interest rates on the directed long-term loans and new bonds to the benchmark interest rates detailed in the ''Subsidies Valuation Information'' section, above, in accordance with section 771(5)(E)(ii) of the Act. For the period January 2000 through June 2002, we used an uncreditworthy benchmark rate because we determined that Hynix was uncreditworthy during this period (as discussed above in the ''Creditworthiness'' section and the accompanying *Creditworthiness Memo*). For long-term variable-rate loans, the repayment schedules of these loans did not remain constant during the lives of the respective loans. Therefore, we have calculated the benefit from these loans using the Department's variable rate methodology as described in 19 CFR 351.505(a)(5) and 19 CFR 351.505(c)(4). For long-term fixed-rate loans and bonds, consistent with Cold-Rolled Steel, we calculated the benefit using the Department's standard fixed-rate methodology specified in 19 CFR 351.505(c)(2). We summed these benefits to determine the total benefit

during the POI from the long-term loans and bonds.

• For short-term loans, we calculated the benefit using the methodology specified in 19 CFR 351.505(c)(1) and (2). We summed these benefits to determine the total benefit during the POI from these short-term loans.

We treated the D/A financing as short-term debt. According to record information, this form of debt involved the discounting of receivables. Because we did not have the imputed interest rate on this type of debt, we assumed, as gap-filling facts available, that the interest rate was the same as the short-term rate on Hynix' other short-term debt that was denominated in the same currency. To calculate the benefit, we compared this short-term rate to the benchmark short-term rate.

Also, regarding the usance financing and overdraft lines, the ceilings and terms for both types of credit are normally renegotiated on an annual basis. However, as part of the May and October restructuring packages, both the usance and overdraft ceilings were extended for a longer period than the normal one-year agreement. For instance, in the May package, both the usance and overdraft credit lines were extended from December 2001 to June 30, 2003. The lines were further extended in the October package to December 2004.

Because the ceilings and terms were extended beyond one year and it is unclear at this point whether these loans could be outstanding for greater than one year, we treated these loans as long-term loans on the assumption that the loans could be outstanding for greater than one year. For the period before the extensions (January through April 2001), we treated these loans as short-term loans.

Debt-to-Equity Swaps

As discussed above, as part of the October 2001 restructuring package, certain of Hynix' creditors swapped some of their outstanding debt for equity. To determine whether these equity purchases conferred a benefit on Hynix, we followed the methodology described in 19 CFR 351.507.

According to 19 CFR 351.507, the first step in determining whether an equity investment decision is inconsistent with the usual investment practice of private investors is examining whether, at the time of the infusion, there was a market price paid by private investors for similar newly-issued equity. However, pursuant to 19 CFR 351.507(a)(iii), if a private investor's purchases of newly issued shares is not significant, the Department will not use the market price paid by the private investor for comparison purposes.

According to record information, Hynix was involved in a GDS issuance in June 2001 that was spearheaded by SSB. According to Hynix, the GDS issuance was oversubscribed by 1.5 times, which is a testament to its success. The GDSs were priced at twelve USD each and were equivalent to five shares of Hynix common stock.

In April 2001, prior to the GDS issuance, SSB issued a report on Hynix stating that it expected DRAMS prices to stabilize at USD 2.40 in the second quarter of 2001 and begin to rebound in the third quarter of 2001. In addition, SSB touted, ''Hynix should offer tremendous potential upside to new and existing equity holders as the market improves this year.'' However, shortly thereafter, SSB's positive forecasts proved to be the exact opposite of what happened to Hynix and the worldwide DRAMS market.

By July 2001, DRAMS prices had fallen 75 percent from their July 2000 levels, reaching USD 1.10. Morgan Stanley Dean Witter (''MSDW'') stated in a July 2001 equity report on Hynix, ''{i}n view of the weakness in DRAMS fundamentals, the company's loss of competitiveness in the DRAMS business by not investing effectively, and its huge debt, which will likely continue to impair shareholders' value, we see no reason to be positive on the stock.'' MSDW slashed its earnings per share projections for Hynix by 51 percent for 2001, and 604 percent for 2002, based on this assessment.

Echoing MSDW's concerns, CSFB, in July 2001, increased its forecast of Hynix' net losses from won 2.5 trillion to won 3.9 trillion for 2001, and from won 1.7 trillion to won 2.4 trillion for 2002. In August 2001, despite the worsening of the DRAMS market and Hynix' financial state, SSB continued to see Hynix in a positive light. SSB, however, revised its 2001 revenue estimates for Hynix to won 4.3 trillion, down from Hynix' own revenue estimates of won 8.7 trillion made in April 2001.

By September of 2001, investors worldwide voiced their pessimism towards the DRAMS market in the stock exchanges. According to Dow Jones International, by September 2001, Hynix' GDSs had lost 72 percent of their issuance value, a loss of USD 900 million to investors. By October of 2001, the DRAMS market had changed dramatically from January, and even June, 2001. According to the *Wall Street Journal,* DRAMS prices were below cost industry-wide. In an October 8, 2001, article, the *Wall Street Journal* stated, ''{a}lthough chip makers worldwide are taking a loss with each chip they sell, Hynix, according to industry analysts, is in the worst financial shape. In early September, Hynix' future looked shaky. Now, as the global economic outlook gets grimmer, {Hynix'} looks worse.''

Because of the extreme differences in the condition of the global DRAMS market as a whole, and Hynix' financial state at the time of the two equity infusions, we do not believe that the GDS issuance in June 2001 supports a conclusion that the October 2001 equity purchase (*i.e.*, debt-to-equity conversion) was consistent with the usual investment practices of private investors (*see* section 771 (5)(E)(i) of the Act). Clearly, the earlier, rosy expectations for a rebound in DRAM demand and prices, which were necessary for Hynix to improve its position, were not bourne out. Therefore, we have not considered the GDS issuance in our analysis of the usual investment practices of private investors. Nor have we used the prices paid for the GDS as a measure of what a private investor would pay for Hynix' stock in October 2001.

Citibank was one of Hynix' creditors that opted to swap debt for equity in the October 2001 debt restructuring. As discussed above, we have preliminarily determined that Citibank's participation in the Hynix restructuring was not directed by the GOK. Therefore, we must consider whether Citibank's decision to swap debt for equity demonstrates that the other creditors' decision to swap their debt for equity was consistent with the private investor standard in section 771 (5)(E)(i) of the Act.

Pursuant to 19 CFR 351.507(a)(2)(3), if a private investor's purchases of newly issued shares are not significant, the Department will not use the market price paid by the private investor for comparison purposes. Although we cannot reveal the actual portion of the equity purchase accounted for by Citibank because it is proprietary, we preliminarily determine that Citibank's purchase was insignificant.

In discussing the requirement in 19 CFR 351.507(a)(2)(3), ''the amount of shares purchased by a private investor must be significant in order to provide an appropriate benchmark,'' the *Preamble* refers to *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy,* 60 FR 31992, 31994 (June 19, 1995) (''*Pipe from Italy*''). In *Pipe from Italy*, the Government of Italy (''GOI''), and numerous private investors participated in the same equity issuance. The GOI purchased 81.6

percent of the shares, while private investors purchased the remaining 18.4 percent, at the same price. The Department, in *Pipe from Italy,* considered the private investors' participation in the equity issuance significant and, therefore, did not find the GOI's equity infusion inconsistent with the usual investment practice of private investors. The portion of equity obtained by Citibank in Hynix' October restructuring was less than the private investors' participation in *Pipe from Italy*.

Because we did not have actual private investor prices to use as a comparison to the price paid by Hynix' other creditors, we examined other indicators of Hynix' equityworthiness, pursuant to 19 CFR 351.507(a)(4). From 1997 through 2001, Hynix reported losses in every year except 1999. In 2000, Hynix' net income was negative 28 percent and in 2001, its net income was negative 127 percent. Based on Hynix' financial statements, its return on equity was negative in 1998 (negative 6 percent), 1999 (negative 3 percent), 2000 (negative 40 percent), and 2001 (negative 97 percent). MSDW estimated Hynix' return on equity for 2002 at negative 76 percent. Additionally, for the years 1997 through 2001, Hynix' debt-to-equity ratios ranged from 688 percent in 1997 to 129 percent in 2001. These figures clearly demonstrate Hynix' poor condition throughout the late 1990s and through 2001.

Based on these indicators, we preliminarily determine that Hynix was unequityworthy at the time of the October 2001 debt-to-equity swap. In accordance with 19 CFR 351.507(a)(6), we have treated the amount of equity purchased by Hynix' creditors, other than Citibank, as a grant.

As discussed above, Hynix' October restructuring package included the conversion of won 2.99 trillion in convertible bonds, and secured and unsecured loans into new convertible bonds which carried an obligation to convert the bonds into equity. These bonds were issued on December 6, 2001. Because the new convertible bonds carried a conversion obligation, Hynix recorded the debt-to-equity swap as a capital adjustment in its 2001 financial statements. Therefore, we have treated the benefit as having been provided to Hynix in 2001.

In accordance with 19 CFR 351.507(c), we allocated the benefit of the debt-to-equity conversion over the AUL using the uncreditworthy discount rate as described in the ''Subsidies Valuation Information'' section, above.

Debt Forgiveness

Under 19 CFR 351.508(c), the benefit conferred by a debt forgiveness is the amount of the debt forgiven. To calculate the benefit to Hynix received during the POI from the October 2001 debt forgiveness, we allocated the entire amount of debt forgiven over the AUL using an uncreditworthy discount rate.

KDB ''Fast Track'' Debenture Program

In the aftermath of the 1997 financial crisis, many ROK companies had to borrow heavily to service their USD-denominated debts, which soared as the value of the won plummeted against the USD. Many companies did so through corporate bond issues, most of which were set to mature in late 2000 and 2001. However, when it came time for these bonds to mature, difficulties in the financial market, including unwillingness by investors to invest in the bond market due to heightened risk, especially in companies with poor credit ratings, made it difficult for many companies to refinance or service their maturing bonds. Moreover, many financial institutions could not extend further financing to companies because of loan exposure limits put in place following the financial crisis.

Due to this situation, many ROK companies, especially those with below-investment grade bond ratings, were left with serious liquidity problems. Furthermore, the won 65 trillion in corporate bonds coming due in 2001 threatened to overwhelm the capital markets. Therefore, the GOK instituted several programs to try to address this situation. In June 2000, the GOK established the Collateralized Bond Obligation (''CBO'') and Collateralized Loan Obligation (''CLO'') programs in order to support the refinancing of corporate bonds. Through these programs, the GOK purchased debentures and loans from ROK companies, repackaged them into portfolios that included many bonds from different companies, and sold securities backed by those bonds and loans to investors with a partial guarantee from the Korea Credit Guarantee Fund (''KCGF''). No more than 10 percent of the debt of any one company could be placed into a single bundle of bonds or loans. According to the GOK, any company with maturing bonds was eligible to participate in the CBO and CLO programs.

Because many companies had much greater debt than could be handled by each CBO/CLO portfolio due to the 10 percent exposure limit, the GOK created the KDB Fast Track or Debenture Program to address this problem. Under the Fast Track program, which was administered by the KDB, companies selected to participate in this program first had to redeem 20 percent of their bonds that were maturing in 2001; the remaining 80 percent of the maturing bonds were purchased by the KDB, and were subsequently replaced with new bonds issued by the participating companies. Of the bonds purchased by the KDB that were replaced by new issues, 10 percent of the new bonds issued were kept by the KDB, 20 percent of each new issue was purchased by the company's creditors (a blanket waiver was issued by the GOK in order to allow the creditors to surpass their loan exposure limits), and the remaining 70 percent of each new issue was bundled with other bonds and sold as CBOs or CLOs (which were partially guaranteed by the KCGF). As part of the agreement that had to be signed by the participating companies, each company was required to purchase a certain percentage of its subordinated bonds bundled with other bonds in the CBOs and CLOs (three percent in the case of a CBO, and five percent for a CLO). The program ceased to operate at the end of 2001.

According to the GOK, in order to participate in the Fast Track program, companies had to be nominated by their Creditors' Councils. Companies eligible to participate in this program, as established in Article 8 of the Creditor Financial Institutions and Corporate Credit Guarantee Fund Council Agreement to Facilitate Bond Offerings, are those that (1) are experiencing temporary liquidity problems due to a large-scale maturation of corporate bonds but have the ability to redeem at least 20 percent of those bonds; (2) are nominated by their Creditors' Council; and (3) that are not distressed companies that are undergoing corporate reorganization or workout programs. According to record evidence, only six companies participated in this program, four of which were current or former Hyundai affiliates.

Hynix was selected to participate in the Fast Track program in January 2001. According to Hynix, won 1.208 trillion of its bonds were refinanced through this program. Of this total, the KDB purchased won 120.8 billion (or 10 percent) of the maturing bonds, the creditor banks purchased won 241.6 billion (or 20 percent) of the maturing bonds, and the CBO/CLO funds purchased 70 percent of the remaining new issues, won 845.6 billion. Upon incorporation into the CBO and CLO funds, Hynix then repurchased back the specified proportion of the subordinate bonds through the CBOs and CLOs.

Hynix participated in the program only until August 2001.

As discussed above, we have preliminarily determined that the GOK's direction of credit was specific to Hynix and other current or former Hyundai Group companies. Additionally, we preliminarily determine that the Fast Track program was *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the participants in this program were limited in number. However, we preliminarily determine that the bonds that were placed in the CBO and CLO funds as part of this program did not provide a countervailable subsidy to Hynix because, according to record information, those programs were available to anyone with maturing bonds that wanted to participate and we have found no evidence of *de jure* or *de facto* specificity in the application of the program.

To determine the benefit received by Hynix as a result of the Fast Track program, we compared the interest rates on the directed bonds to the benchmark interest rates detailed in the ''Subsidies Valuation Information'' section, above. We calculated the benefit from these bonds using the Department's standard fixed-rate methodology described in 19 CFR 351.505(c)(2). We summed these benefits to determine the total benefit during the POI.

2. Other Loans Provided From 1999 Through the POI

With the exceptions noted below, for all other loans obtained by Hynix during this period that were outstanding during the POI, we calculated the benefit using the methodology described above for the Hynix restructuring loans.

Hynix stated in its questionnaire responses that it obtained Long-Term Usance loans, as well as loans under the Fund for Promotion of Informatization and the Fund for Promotion of Defense Industry, during this period that were outstanding during the POI. Hynix reported that these loans were for projects involving non-subject merchandise. Thus, for the purposes of this preliminary determination, we have not included these loans in our benefit calculations for Hynix. We note that Hynix'' questionnaire responses on this matter will be subject to verification.

3. Loans Provided Prior to 1999

As explained above, the Department has preliminarily determined that the GOK directed credit to the semiconductor industry in the period through 1998. We further determine that these GOK-directed loans to Hynix and SEC are financial contributions as described in section 771(5)(D)(i) of the Act.

The directed loans received by Hynix and SEC through 1998 that were outstanding during the POI were long-term fixed- and variable-rate foreign currency loans and long-term fixed- and variable-rate won-denominated loans. In order to determine whether a benefit was received by Hynix or SEC as a result of the long-term loans that were received through 1998 (with the exception of those noted below), we compared the interest rates on the directed loans to the benchmark interest rates detailed in the ''Subsidies Valuation Information'' section, above. For long-term variable-rate loans, the repayment schedules of these loans did not remain constant during the lives of the respective loans. Therefore, we have calculated the benefit from these loans using the Department's variable rate methodology as described in 19 CFR 351.505(a)(5) and 19 CFR 351.505(c)(4). For long-term fixed-rate loans, consistent with *Cold-Rolled Steel,* we calculated the benefit using the methodology specified in 19 CFR 351.505(c)(2). We summed the benefit amounts during the POI to determine the total benefit for each company.

Hynix reported that it did not directly receive loans under the Energy Savings Fund (''ESF'') (loans made from this fund are discussed in *Plate in Coils*, 64 FR 15533, and *Structural Beams*, 65 FR 41051 and accompanying July 3, 2000 Decision Memorandum at page 12, Section I.A.2). The GOK, on the other hand, reports that Hynix did in fact maintain an outstanding ESF loan balance during the POI. The basis for Hynix' claim that it did not participate in the ESF program is that funding for Hynix projects was disbursed to third-party energy savings companies (''ESCOs''), which completed the Hynix ESF projects under contract.

The record indicates that Hynix and the ESCOs submitted applications jointly to the Korea Energy Management Corporation in order to obtain ESF funding. Information concerning these transactions is not on the record, and, accordingly, we are not making a determination concerning Hynix ESF loans at this time. Instead, we will request further information on this matter during the course of this proceeding and will make a finding on this matter in the final determination.

SEC reported that certain loans received under the Science and Technology Promotion Fund prior to 1999 were tied to non-subject merchandise (loans made from this fund are discussed in *Structural Beams*, 65 FR 41051 and accompanying July 3, 2000 Decision Memorandum at page 13). Furthermore, both Hynix and SEC stated in their questionnaire responses that their loans from the Fund for Promotion of Informatization and the Fund for Industrial Technology Development that were obtained during this time period were for projects involving non-subject merchandise. Thus, for the purposes of this preliminary determination, we have not included these loans in our benefit calculations. We note that Hynix'' and SEC's questionnaire responses on this matter will be subject to verification.

Countervailable Subsidy Rates for Hynix and SEC

We used the above mentioned methodologies to calculate the benefit from all of the financial contributions discussed above, and summed the benefit amounts from all financial contributions. We then divided the total benefit by each respective company's total sales values during the POI. On this basis, we determine the net countervailable subsidy to be 57.23 percent *ad valorem* for Hynix and 0.01 percent *ad valorem* for SEC.

B. Tax Programs Under the Tax Reduction and Exemption Control Act (''TERCL'') and/or the Restriction of Special Taxation Act (''RSTA'')

Under ROK tax laws, ROK companies are allowed to claim tax credits for various kinds of investments. If the investment tax credits cannot be used entirely during the year they are claimed, then the company may carry them forward for use in subsequent years. Until December 28, 1998, these investment tax credits were provided under the TERCL. On that date, the TERCL was replaced by the RSTA. Pursuant to this change in the law, tax credits based on eligible investments made after December 28, 1998 were provided under the authority of RSTA.

In past proceedings, the Department found that companies that invested in domestically-produced facilities (*i.e.*, facilities produced in the ROK) received higher tax credits than companies that invested in foreign-produced facilities under these programs. *See CTL Plate*, 64 FR 73182. Under section 771(5A)(C) of the Act, subsidies that are contingent upon the use of domestic goods over imported goods are specific. Accordingly, the Department determined that the higher tax credits for investments made in domestically-produced facilities constituted import substitution subsidies under section 771(5A)(C) of the Act. In addition, because the GOK had foregone the collection of tax revenue otherwise due

under this program, the Department determined that a financial contribution was provided as described in section 771(5)(D)(ii) of the Act, with a benefit to the recipients in the amount of the tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Therefore, the Department determined that this program was countervailable. *See CTL Plate*, 64 FR 73182.

In *Cold-Rolled Steel*, the Department found that changes had been made in the manner in which at least some of these investment tax credits are determined. *See Cold-Rolled Steel*, 67 FR 62102, and the accompanying September 18, 2002 Decision Memorandum at page 12, Section I.F. Pursuant to amendments made to the TERCL on April 10, 1998, the distinction between investments in domestic and imported goods was eliminated for certain programs, including the Tax Credit for Investment in Facilities for Productivity Enhancement (Article 24 of RSTA) and the Tax Credit for Investment in Specific Facilities (Article 25 of RSTA). Accordingly, the Department determined that tax credits received under these programs for investments made after April 10, 1998 are no longer countervailable. However, companies can still carry forward and use the tax credits for investments earned under the countervailable aspects of the TERCL program before the April 10, 1998 amendment to the tax law. Consistent with *Cold-Rolled Steel*, the Department continues to find countervailable the use of investment tax credits earned on investments made before April 10, 1998.

The specific Articles under the TERCL and the RSTA that we are investigating in the instant investigation are discussed separately below:

Temporary Tax Credit for Investment (Article 26 of RSTA)

The tax credit program under Article 26 of RSTA was enacted to promote investment in facilities during periods of economic slowdown. It provides a tax credit equal to ten percent of the investments made by companies in certain eligible industries specified in the implementing Presidential Decree, which includes the computer industry. Article 26 of RSTA was not among the programs found in *Cold-Rolled Steel* to have eliminated the import substitution advantage for eligible investments made after April 10, 1998.

Hynix reported no taxable income for the POI and, therefore, claimed no credits and received no benefits under this tax program. SEC claimed credits and received tax benefits under this program in its 2001 tax return for tax year 2000, but not in its 2002 tax return for tax year 2001.

As discussed above, we found in *CTL Plate* that tax programs offered as part of the RSTA and the TERCL bestowed a financial contribution in the form of foregone revenue, as described in section 771(5)(D)(ii) of the Act, with a benefit to the recipients in the amount of the tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Moreover, as discussed above, we determined in *CTL Plate* and *Cold-Rolled Steel* that tax benefits offered through the RSTA and the TERCL are *de jure* specific pursuant to section 771(5A)(C) of the Act, to the extent that they are contingent upon the use of domestic goods over imported goods. As noted above, this Article of the RSTA was not one of the programs for which the distinction between domestic and foreign-produced merchandise was eliminated. Therefore, because ROK companies received a higher tax credit for investments made in domestically-produced facilities, we preliminarily find that this program is specific pursuant to section 771 (5A)(C) of the Act. Thus, we preliminarily determine that this program conferred countervailable subsidies upon SEC during the POI.

In calculating the benefit for SEC, consistent with 19 CFR 351.524(c)(1), we treated the tax savings as a recurring benefit and divided the tax savings received by SEC during the POI by SEC's total sales during the POI. On this basis, we preliminarily determine that a countervailable benefit of 0.15 percent *ad valorem* exists for SEC under this program.

C. Electricity Discounts Under the Requested Load Adjustment (''RLA'') Program

The GOK introduced an electricity discount under the RLA program in 1990 to address emergencies in the Korea Electric Power Company's (''KEPCO'') ability to supply electricity. Under this program, customers with a contract demand of 5000 kilowatts or more who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3000 kilowatts or more are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per kilowatt is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load.

During the POI, SEC received an RLA discount for July and August 2001. Hynix did not participate in the program during the POI.

The Department has previously found this program to be countervailable. *See Sheet and Strip*, 64 FR 30636, and *Cold-Rolled Steel*, 67 FR 62102 and accompanying September 23, 2002 Decision Memorandum at page 18, Section I.M. Specifically, we found this program specific under section 771(5A)(D)(iii)(I) of the Act because the discounts were distributed to a limited number of customers. A financial contribution is provided within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government, with the benefit being a discount on the company's monthly electricity charge. No party has provided any new information to warrant reconsideration of this determination. Therefore, we preliminarily determine this program to be countervailable pursuant to section 771(5) of the Act.

Consistent with *Sheet and Strip* and *Cold-Rolled Steel*, because the electricity discounts provide recurring benefits, we have expensed the benefit from this program in the year of receipt. To measure the benefit from this program, we summed the electricity discounts which SEC received from KEPCO under the RLA program during the POI. We then divided that amount by SEC's total sales value for the POI. On this basis, we determine a net countervailable subsidy of 0.00 percent *ad valorem* for SEC.

D. Operation G–7/HAN Program

Under the Framework Act on Science and Technology, the GOK made direct financial contributions in the form of interest-free loans to respondent companies under the Operation G–7/HAN Program. These loans were provided as matching funds in support of the Next Generation Semiconductor Technology Project from 1993 through 1997 through the Ministry of Science and Technology (''MOST''), the Ministry of Commerce, Industry, and Energy, and other administrative authorities.

Both Hynix and SEC report that they had loans that were outstanding during the POI under this program.

We preliminarily determine that this program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to the

semiconductor industry. In addition, we preliminarily determine that a financial contribution was provided under section 771(5)(D)(i) of the Act in the form of direct loans from the GOK. Finally, pursuant to section 771(5)(E) of the Act, we preliminarily determine that the benefit conferred by this program is the difference between the amount the companies paid on the loans and the amount the companies would pay on comparable commercial loans.

Consistent with section 771(5)(D)(i) of the Act and 19 CFR 351.505(c)(2), we calculated the benefit from these loans by comparing the interest actually paid on the loans during the POI to what the companies should have paid during the POI. We used as our benchmarks the rates described in the ''Discount Rates and Benchmarks for Loans'' section, above. We then divided the total benefit from the loans for each company by the company's total sales in the POI to calculate the total countervailable subsidy. On this basis, we preliminarily determine that countervailable benefits of 0.14 percent *ad valorem* and 0.01 percent *ad valorem* exist for Hynix and SEC, respectively.

E. 21st Century Frontier R&D Program

The 21st Century Frontier R&D program is a GOK program established in 2000 that provides loans to semiconductor manufacturers in the form of matching funds for research and development to overcome the technological limits of next-generation semiconductor technology, among other goals. The GOK made direct financial contributions under this program in the form of interest-free loans through the MOST and other administrative authorities.

SEC claims that it did not receive any loans under this program. Hynix reports that it had loans outstanding during the POI under this program.

We preliminarily determine that this program is specific within the meaning of section 771(5A)(D)(i) of the Act, because it is limited to the semiconductor industry. In addition, we preliminarily determine that a financial contribution was provided under section 771(5)(D)(i) of the Act in the form of direct loans from the GOK. Finally, pursuant to section 771(5)(E) of the Act, we preliminarily determine that the benefit conferred by this program is the difference between the amount the companies paid on the loan and the amount the companies would pay on comparable commercial loans.

Consistent with section 771(5)(D)(i) of the Act, we calculated the benefit from these loans by comparing the interest actually paid on the loans during the POI to what the companies should have paid during the POI. We used as our benchmarks the benchmarks discussed in the ''Discount Rates and Benchmarks for Loans'' section above. We then divided the total benefit from the loans for each company by the company's total sales in the POI to calculate the total countervailable subsidy. On this basis, we preliminarily determine that a countervailable benefit of 0.00 percent *ad valorem* exists for Hynix.

II. Programs Preliminarily Determined to Be Not Countervailable

Tax Programs Under the TERCL and/or the RSTA

1. Reserve for Research and Human Resources Development (formerly Technological Development Reserve) (Article 9 of RSTA/formerly, Article 8 of TERCL)

Article 8 of the TERCL permits an ROK company operating in manufacturing or mining, or in a business prescribed by a Presidential Decree, to set aside funds into a reserve account to cover a company's planned expenditure for the ''development or innovation'' of technology. These funds are reported as a loss in the current taxable year, thus reducing the company's tax liability. Article 8 specifies that capital goods producers and technology-intensive companies can establish a reserve of up to five percent of revenue, while companies in other industries are limited to a three percent reserve. After a two-year grace period, funds set aside for the reserve must be allocated as income over a three-year period.

Hynix established a fund in 1996, and evenly distributed the fund as taxable income in years 1999 through 2001. SEC created a reserve under this program in 1999; it did not allocate any portion of this fund as taxable income through the end of the POI.

In *CTL Plate*, 64 FR 73181, we determined that this program was countervailable for companies that could claim a five percent tax reserve, but not for companies that could claim a three percent tax reserve. Both Hynix and SEC claim that they are only eligible for the three percent tax reserve. Therefore, we preliminarily determine that this program is not countervailable with respect to Hynix and SEC because neither was eligible for the countervailable reserve.

2. Tax Credit for Research and Human Resources Development Expenses (Article 10 of RSTA/Article 9 of TERCL)

Article 10 of the RSTA replaced Article 9 of the TERCL at the beginning of 2001. It provides a tax credit for certain qualifying expenses related to research and human resources development (''R&HRD''), deductible from individual or corporate income tax. Under Article 9 of the TERCL, the credit was limited to certain mining, manufacturing, or other businesses (including computer companies), as specified by the implementing Presidential Decree. Under Article 10 of the RSTA, however, eligibility was extended to all domestic businesses, except for those in real estate or consumptive services. There are two methods for calculating the credit, under which the amount is equal to either (1) 50 percent of the amount by which the R&HRD expense incurred for the relevant tax year exceeds the yearly average of R&HRD expenses incurred over the four years preceding the tax year; or (2) 15 percent of R&HRD expenses for the tax year. Persons other than small and medium enterprises, however (*e.g.*, large corporations) may claim credits only pursuant to the first method.

Hynix claims it was not eligible for this program during the POI and, hence, claimed no tax credits and received no benefits under the program during the POI. SEC claimed credits and received tax benefits under this program in its tax returns for 2000 and 2001, which were applicable to its tax liabilities during the POI.

Based on the record evidence, we find no indication that this program is specific on any basis under section 771(5A). Therefore, we preliminarily determine that benefits received under this program are not countervailable.

3. Tax Credit for Investment in Facilities for Productivity Enhancement (Article 24 of RSTA/Article 25 of TERCL)

Article 24 of the RSTA, which is the Tax Credit for Investment in Facilities for Productivity Enhancement, provides tax credits for investments in specified capital equipment. We have previously determined that tax credits received pursuant to these investment programs for investments made after April 10, 1998 are not countervailable because a distinction between investment in domestic versus foreign-made goods was eliminated. *See Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip From the Republic of Korea*, 68 FR 13267 (March 19, 2003) and accompanying March 10, 2003 Decision Memorandum at page 11, Section III.A.8.

Both SEC and Hynix claimed exemptions under Article 24 of the RSTA. All of SEC's tax credits resulted

from investments made after April 10, 1998. Therefore, we preliminarily conclude that SEC did not receive countervailable benefits under this program. Additionally, Hynix reported no taxable income for the POI and, therefore, claimed no credits and received no benefits under this tax program.

4. Tax Credit for Investment in Facilities for Special Purposes (Article 25 of RSTA)

Article 25 of the RSTA provides tax credits equal to three percent of the company's investment in specified facilities related to, among other things, environmental and health and safety measures. The credits are deducted from the company's corporate income tax liability. Article 25 of the RSTA was among the programs found in *Cold-Rolled Steel* to have eliminated the import substitution tax advantage for eligible investments made after April 10, 1998. Thus, tax credits based on investments made after that date are not countervailable.

Hynix reported no taxable income for the POI and, therefore, claimed no credits and received no benefits under this tax program. SEC claimed credits under this program in its 2001 tax return for tax year 2000, but not in its 2002 tax return for tax year 2001. However, SEC reports that all tax credits it earned under the program for the POI were based on investments made after April 10, 1998. Moreover, SEC reports that it did not carry forward any tax credits from years prior to April 10, 1998. Therefore, we preliminarily find that neither Hynix nor SEC received a benefit from this program during the POI.

III. Programs Preliminarily Determined Not To Have Been Used

Based on the information provided in the responses, we determine no responding companies applied for or received benefits under the following programs during the POI:

A. Short-Term Export Financing

B. Tax Programs Under the TERCL and/or the RSTA

1. *Reserve for Overseas Market Development (formerly, Article 17 of TERCL)*
2. *Reserve for Export Loss (formerly, Article 16 of TERCL)*
3. *Tax Exemption for Foreign Technicians (Article 18 of RSTA)*
4. *Reduction of Tax Regarding the Movement of a Factory That Has Been Operated for More Than Five Years (Article 71 of RSTA)*

C. Tax Reductions or Exemption on Foreign Investments under Article 9 of the Foreign Investment Promotion Act (''FIPA'')/FIPA (Formerly Foreign Capital Inducement Law)

D. Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates

E. Export Insurance

The Korean Export Insurance Corporation (''KEIC'') was established pursuant to the Export Insurance Act of 1968 for the purpose of providing export insurance. Insurance policies issued to ROK companies through this program provide protection from risks such as payment refusal and buyer's breach of contract. Claims are paid from the Export Insurance Fund, which is managed by the KEIC and is funded by contributions from the GOK and the private sector via premium payments. The KEIC determines premium rates by considering numerous factors, including the creditworthiness of the importing party and the term of the policy. Hynix and SEC both participated in this program during the POI.

To determine whether an export insurance program provides a countervailable benefit, we first examine whether premium rates charged are adequate to cover the program's long-term operating costs and losses. *See* 19 CFR 351.520(a)(1). In doing so, the Department will analyze both the viability of the program and the overall commercial health of the entity operating the program. In examining whether rates are manifestly inadequate, the Department will examine a five-year period, POI inclusive. *See Preamble*, 63 FR at 65385.

The GOK reports that the KEIC export insurance program has experienced operating losses for all of these years, and that the GOK has been covering the losses incurred by this program. Therefore, we preliminarily determine that the premium rates that are being charged are inadequate pursuant to 19 CFR 351.520(a)(1). If the Department determines that premium rates are inadequate, pursuant to 19 CFR 351.520(a)(2), the benefit amount is calculated as the net amount of compensation received (compensation received less premium fees paid). Thus, consistent with the *Final Affirmative Countervailing Duty Determination: Carbon Steel Butt-Weld Pipe Fittings From Israel*, 60 FR 10569, 10571 (February 27, 1995), we examined export insurance expressly related to DRAMS exported to the United States. SEC did not make any claims or receive any pay-outs from the KEIC related to DRAMS during the POI; Hynix reported that it also did not receive any pay-outs during the POI. Therefore, we preliminarily determine that neither SEC nor Hynix received a countervailable benefit pursuant to this program within the meaning of section 771(5)(E) of the Act during the POI.

IV. Program Preliminarily Determined To Not Exist

Based on the information provided in the responses, we preliminarily determine that the following program does not exist:

Won 680 Billion Bond Guarantee

V. Programs for Which We Did Not Make a Preliminary Determination

As noted above, because we received several new subsidy allegations from the petitioner only 40 days prior to this preliminary determination, and were not able to initiate an investigation of two of these programs until four weeks before the preliminary determination (as discussed in the *New Subsidy Allegations Memo*), we had insufficient time prior to this preliminary determination to properly analyze the data and information submitted in response to these new programs. However, we will make a finding on the following new programs in the final determination:

A. Import Duty Reduction for Cutting Edge Products

B. Permission for Hynix and SEC To Build in Restricted Area

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates for Hynix and SEC to be the following:

Producer/Exporter	Net subsidy rate (percent)
Samsung Electronics Co., Ltd.	0.16
Hynix Semiconductor Inc. (formerly, Hyundai Electronics Industries Co., Ltd.)	57.37
All Others	57.37

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the ''all others'' rate as

Hynix' rate because the rate for SEC, the only other investigated company, is *de minimis*.

Pursuant to section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of DRAMS from the ROK (except for entries from SEC) that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise (except for entries from SEC) in the amounts indicated above. Entries from SEC are not subject to this suspension of liquidation because we have preliminarily determined its rate to be *de minimis*. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(3) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 31, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8409 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533–829]

Prestressed Concrete Steel Wire Strand from India: Extension of Time Limit for Preliminary Determination in Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Preliminary Determination in Countervailing Duty Investigation.

EFFECTIVE DATE: April 7, 2003.

SUMMARY: The Department of Commerce is extending the time limit of the preliminary determination in the countervailing duty (CVD) investigation of prestressed concrete steel wire strand from India from April 28, 2003 to June 30, 2003. This extension is made pursuant to section 703(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act'').

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Alicia Kinsey, or Jim Neel, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230; telephone: 202–482–2209, (202) 482–4793 or 202–482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Extension of Due Date for Preliminary Determination

On February 20, 2003, the Department of Commerce (''the Department'') initiated the CVD investigation of prestressed concrete steel wire strand from India. *See Notice of Initiation of Countervailing Duty Investigation: Prestressed Concrete Steel Wire Strand from India*, 68 FR 9058 (February 27, 2003). Currently, the preliminary determination is due no later than April 28, 2003. However, pursuant to section 703(c)(1)(B) of the Act, we have determined that this investigation is ''extraordinarily complicated'' and are therefore extending the due date for the preliminary determinations by 63 days to no later than June 30, 2003.

Under section 703(c)(1)(B), the Department can extend the period for reaching a preliminary determination until not later than the 130th day after the date on which the administering authority initiates an investigation if:

(B) the administering authority concludes that the parties concerned are cooperating and determines that

(i) the case is extraordinarily complicated by reason of

(I) the number and complexity of the alleged countervailable subsidy practices;

(II) the novelty of the issues presented;

(III) the need to determine the extent to which particular countervailable subsidies are used by individual manufacturers, producers, and exporters; or

(IV) the number of firms whose activities must be investigated; and

(ii) additional time is necessary to make the preliminary determination.

We find that thus far in this investigation all concerned parties are cooperating. Moreover, we find that this case is extraordinarily complicated because of the number of alleged programs, and the complexity of each program. Subsidy programs have been alleged against the federal government, as well as four state governments, for a total of twenty-two programs requiring analysis. As a consequence, we determine that additional time is necessary to complete the preliminary determination. Therefore, pursuant to section 703(c)(1)(B) of the Act, we are postponing the preliminary determination in this investigation to no later than June 30, 2003.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: March 31, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–8412 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Workshop on Storage and Processor Card-based Technologies

AGENCY: National Institute of Standards and Technology (NIST).

ACTION: Notice of public workshop.

SUMMARY: The National Institute of Standards and Technology (NIST) announces a workshop to identify current and planned Federal government activities and related needs, general issues, existing voluntary industry consensus standards, gap areas in standards coverage, and industry capabilities in the field of storage and processor card technologies. It is anticipated that the workshop will support development of a standards roadmap, and a guideline on storage and processor card technologies to include multitechnology composition issues. The goal of this initial workshop is to develop and exchange information on the standards for and capabilities of multitechnology storage and processor cards. This workshop is not being held in anticipation of a planned procurement activity. The detailed draft agenda and supporting documentation for the workshop will be available from the NIST Computer Security Resource Center Web site at *http://csrc.nist.gov* by May 9, 2003.

DATES: The workshop will be held on July 8, 2003, from 9 a.m. to 5 p.m. It is anticipated that this will be a one-day workshop, but provisions are being made to support a second day in case the response to this announcement supports an expanded agenda.

ADDRESSES: The workshop will be held in the Administration Building (Bldg. 101), Green Auditorium, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Further information, when available, may be obtained from the Computer Security Resource Center Web site at *http://csrc.nist.gov* or by contacting Terry Schwarzhoff or Curt Barker, National Institute of Standards and Technology, Building 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930; telephone 301–975–5727; Fax 301–948–1233, or e-mail *terry.schwarzhoff@nist.gov* or *wbarker@nist.gov.*

SUPPLEMENTARY INFORMATION: Many technologies, such as optical stripe media, barcodes, magnetic stripes, contactless integrated chips, and the smart card integrated circuit chip have been implemented on card platforms. Voluntary industry consensus standards for many of these technologies are already available, but have not been integrated (directly or by reference) into one single document for use by federal agencies. This roadmap would provide a reference to the existing standards for these card technologies and help identify gap areas for the wider card technology community. Many card platforms include anti-counterfeit elements to increase the security of the physical platform. Some examples of these are holograms, optical variable devices (OVDs), laser etching, and ghost/shadow printing, but again have not been addressed in a single document with respect to integration with card technologies.

The General Accounting Office recently issued a report on ''Progress in Promoting Adoption of Smart Card Technology'' (GAO–03–144, February 5, 2003). The Report provides a set of Recommendations (pp. 35) that reinforce the role of the National Institute of Standards and Technology (NIST) in the U.S. Government Smart Card (GSC) program. The report recommends that the Director, NIST, continue to improve and update the government smart card interoperability specification by addressing government-wide standards for additional technologies to ensure broad interoperability among federal agency systems. A key NIST response to the GAO recommendation is to develop a guideline that addresses applicable standards for multiple technologies that can coexist on card platforms.

NIST will lead an effort to develop a document/technical report as a roadmap/guideline, in coordination with other agencies and private industry.

The initial workshop is being held to identify the state of candidate technologies and to provide the basis for development of guidelines. Workshop topics are planned to include:

—Current government card-related activities/needs,

—card-based technology attributes,

—industry activities

—card related voluntary industry consensus standards

—and multitechnology interoperability issues.

Advance registration is required. To register, please fax your name, address, telephone, fax and e-mail address to 301–926–2733 (Attn: Card-Based Technology Workshop) by June 9, 2003. Registration by electronic mail should be addressed to *vickie.harris@nist.gov.* Registration questions should be addressed to Vickie Harris on 301–975–2934. Due to NIST security regulations regarding access to this site, registration will not be available at the door. The workshop will be open to the public.

Authority

This work effort is being initiated pursuant to NIST's responsibilities under the Federal Information Security Management Act of 2002, the Information Technology Management Reform Act of 1996, Executive Order 13011, and OMB Circular A–130.

Dated: April 1, 2003.

Karen H. Brown,

Deputy Director.

[FR Doc. 03–8380 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce, and the Environmental Protection Agency.

ACTION: Notice of availability of proposed findings document on conditional approval of coastal nonpoint pollution control program for Texas.

SUMMARY: Second notice is hereby given of the intent to conditionally approve the Texas Coastal Nonpoint Pollution Control Program (coastal nonpoint program) and notice is hereby given of the availability of the revised Proposed Findings Document on the conditional approval. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) 16 U.S.C. section 1455b, requires States and Territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal States and

Territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA for approval. The Findings Document was prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each State and Territory coastal nonpoint pollution control program. NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint pollution control program submitted by Texas.

On September 28, 2001, the first **Federal Register** notice of NOAA's and EPA's intent to conditionally approve the Texas Coastal Nonpoint Program and the availability of the Proposed Findings Document, Environmental Assessment and Finding of No Significant Impact was published. Subsequent to the notice being published, Texas requested additional time to provide additional information and address some of the conditions before the findings were finalized. Texas was able to meet several of the conditions, and NOAA and EPA have revised the Proposed Findings Document accordingly. The following changes have been made to the Proposed Findings Document: (1) the enforceable policy element of the conditions for agriculture, forestry, urban (new development, site development, existing development, watershed protection, and roads, highways and bridges), marinas, and hydromodification has been met through the State's submission of a revised legal opinion. (2) The condition for the urban construction site chemical control, roads, highways and bridges (construction projects and construction site chemical control), and hydromodification (dams) erosion and sediment control and chemical and pollutant control management measures have been addressed through issuance of the National Pollutant Discharge Elimination System (NPDES) Phase II permit. (3) NOAA and EPA have reinstated the previously excluded agricultural dryland rowcrop area subject to receiving additional information to support its exclusion. (4) An alternative for addressing the urban new and existing development management measures condition has been proposed that would allow Texas to finalize its State NPDES rules to ensure that they are required throughout the 6217 management area. (5) The findings for the roads, highways and bridges management measures (planning, siting, development, operation and maintenance, and runoff systems management measures) were revised to clarify that the condition applies only to roads, highways and bridges that are not under the jurisdiction of the Texas Department of Transportation.

Copies of the revised Proposed Findings Document may be found on the NOAA Web site at *http://www.ocrm.nos.noaa.gov/czm/6217/* or may be obtained upon request from: Helen Farr, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-Fast Highway, Silver Spring, Maryland, 20910, phone (301) 713–3155, x150 e-mail *helen.farr@noaa.gov.*

DATES: Individuals or organizations wishing to submit comments on the proposed Findings Document should do so by May 7, 2003.

ADDRESSES: Comments should be made to: John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, phone (301) 713–3155, x188, e-mail *john.king@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Helen Farr, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, phone (301) 713–3155, x150, e-mail *helen.farr@noaa.gov.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: March 31, 2003.

Ted I. Lillestolen,

Associate Deputy, Assistant Administrator, for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Dated: March 28, 2003.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 03–8289 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 033103E]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Groundfish Stock Assessment Review (STAR) Panel for bocaccio and black rockfish will hold a work session which is open to the public.

DATES: The bocaccio and black rockfish STAR Panel will meet beginning at 10 a.m., April 21, 2003. The meeting will continue on April 22, 2003 beginning at 8 a.m. through April 25, 2003. The meetings will end at 5 p.m. each day, or as necessary to complete business.

ADDRESSES: The bocaccio and black rockfish STAR Panel meeting will be held at NMFS Southwest Fisheries Science Center, Santa Cruz Laboratory Conference Room, 110 Shaffer Road, Santa Cruz, CA 95060; telephone: 831–420–3900.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Groundfish Staff Officer; 503–820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review draft stock assessment documents and any other pertinent information, work with the Stock Assessment Team to make necessary revisions, and produce a STAR Panel report for use by the Councilfamily and other interested persons.

Entry to the Southwest Fisheries Science Center requires identification with photograph (such as a student ID, state drivers license, etc.).

Although nonemergency issues not contained in STAR Panel agendas may come before the STAR panel for discussion, those issues may not be the subject of formal panel action during this meeting. STAR Panel 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 Fishery Conservation and Management Act, providedthe public has been notified of the panel's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least 5 days prior to the meeting date.

Dated: April 1, 2003.

Theophilus R. Brainerd,

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

[FR Doc. 03–8394 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032403B]

Marine Mammals; File No. 1003–1665

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Jennifer Moss Burns, University of Alaska Anchorage, Department of Biological Sciences, College of Arts and Sciences, 3211 Providence Drive, Anchorage, AK 99508, has requested an amendment to scientific research Permit No. 1003–1665–00.

DATES: Written or telefaxed comments must be received on or before May 7, 2003.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 1003–1665–00, issued on April 12, 2002 (67 FR 19167) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 1003–1665–00 authorizes the permit holder to take up to 40 Pacific harbor seals (*Phoca vitulina richardsi*) per year in Southeast Alaska by capture, blood and tissue sampling, and attachment of scientific instruments, and up to 500 harbor seals per year by disturbance incidental to capture, scat collection, and ground and aerial surveys. The purpose of the research is to study the physical factors (e.g., ice and water conditions, seasons) that influence seal habitat use and to monitor seal foraging behavior and prey selection. The permit holder requests authorization to increase the number of takes by disturbance incidental to capture and surveys to 2000 per year. This request is based on observations from the previous year's surveys during which a greater than anticipated abundance of seals was documented.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 31, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–8397 Filed 4–4–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter systems of records.

SUMMARY: The Department of the Air Force is proposing to alter two existing systems of records notices in its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alterations consist of adding exemptions to the existing systems of records F033 AF A, entitled 'Information Requests-Freedom of Information Act' and F033 AF B, entitled 'Privacy Act Request File'.

The exemptions are needed because during the course of a Freedom of Information Act (FOIA) and Privacy Act action, exempt materials from other systems of records may in turn become part of the case records in these systems. To the extent that copies of exempt records from those 'other' systems of records are entered into the Freedom of Information Act and/or Privacy Act case records, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into these systems, as claimed for the original primary systems of records which they are a part. Therefore, the Air Force is proposing to add exemptions 5 U.S.C. 552a(j)(2), (k)(1) through (k)(7) to these two existing systems of records.

DATES: The actions will be effective on May 7, 2003, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force FOIA/Privacy Manager, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne P. Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on March 28, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 31, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F033 AF CIC B

SYSTEM NAME:

Information Requests-Freedom of Information Act (June 11, 1997, 62 FR 31793).

CHANGES:

SYSTEM IDENTIFIER:

Replace entry with 'F033 AF A'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to end of entry 'individuals whose requests and/or records have been processed under FOIA and referred by other Federal agencies; and attorneys representing individuals submitting such requests.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Replace entry with 'Records created or compiled in response to FOIA requests, *i.e.*, original requests; responses to such requests; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records.'

* * * * *

PURPOSE(S):

Replace entry with 'To process FOIA requests and to assist the Department of the Air Force in carrying out responsibilities under the FOIA.'

* * * * *

RECORD SOURCE CATEGORY:

Replace entry with 'Those individuals who submit initial requests, the agency records searched in the process of responding to such requests; Air Force personnel assigned to handle such requests; other agencies or entities that have referred requests concerning Department of the Air Force records, or that have consulted with the Department of the Air Force regarding the handling of particular requests; and submitters of records or information that have provided assistance to the Department of the Air Force in making FOIA access determinations.'

EXEMPTION(S) CLAIMED FOR THE SYSTEM:

Replace entry with 'During the course of a FOIA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this FOIA case record, Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 806b. For additional information contact the system manager.'

* * * * *

F033 AF A

SYSTEM NAME:

Information Requests-Freedom of Information Act.

SYSTEM LOCATION:

Air Force installations and headquarters of combatant commands for which Air Force is Executive Agent. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have requested documents under the provisions of the Freedom of Information Act (FOIA); individuals whose requests and/or records have been processed under FOIA and referred by other Federal agencies; and attorneys representing individuals submitting such requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records created or compiled in response to FOIA requests, *i.e.*, original requests; responses to such requests; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, The Freedom of Information Act as implemented by Air Force Supplement to DoD Regulation 5400.7; and 10 U.S.C. 8013.

PURPOSE(S):

To process FOIA requests and to assist the Department of the Air Force in carrying out responsibilities under the FOIA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Released records are retained in office files for two years after annual cut-off. Denied records are retained in office files for six years then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA managers at Air Force installations, bases, units, organizations, and offices. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to or visit the appropriate FOIA office. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to or visit the appropriate FOIA office. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction

37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Those individuals who submit initial requests, the agency records searched in the process of responding to such requests; Air Force personnel assigned to handle such requests; other agencies or entities that have referred requests concerning Department of the Air Force records, or that have consulted with the Department of the Air Force regarding the handling of particular requests; and submitters of records or information that have provided assistance to the Department of the Air Force in making FOIA access determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

During the course of a FOIA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this FOIA case record, Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

F033 AF CIC B

SYSTEM NAME:

Privacy Act Request File (June 11, 1997, 62 FR 31793).

CHANGES:

SYSTEM IDENTIFIER:

Replace entry with 'F033 AF B'.

* * * * *

PURPOSE(S):

Delete 'to prepare legal opinions and interpretations for system managers and the Secretary of the Air Force' and add 'to compile information for reports, and to ensure timely response to requesters.'

* * * * *

STORAGE:

Delete entry and replace with 'Maintained in file folders and on computers and computer output products.'

* * * * *

SAFEGUARDS:

Add to entry 'Records in computer storage devices are protected by computer system software.'

RETENTION AND DISPOSAL:

Replace entry with 'Granted access requests; responses to requests for non-existent records, inadequate descriptions, and failure to pay agency fees that are not appealed, are destroyed 2 years after date of reply; denied access requests not appealed are destroyed 5 years after date of reply; denied access requests appealed, and requests to amend are destroyed with the approved disposition instructions of the related subject individual's record, 4 years after final agency determination, or 3 years after final adjudication by courts whichever is later.'

* * * * *

EXEMPTION(S) CLAIMED FOR THE SYSTEM:

Replace entry with 'During the course of a Privacy Act (PA) action, exempt materials from other systems of records may become part of the case records in this system of records. To the extent that copies of exempt records from those 'other' systems of records are entered into these PA case records, the Department of the Air Force hereby claims the same exemptions for the records as they have in the original primary systems of records which they are a part.

Department of the Air Force exemption rules have been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) published in 32 CFR part 806b. For additional information contact the system manager.'

* * * * *

F033 AF B

SYSTEM NAME:

Privacy Act Request File.

SYSTEM LOCATION:

At all levels having responsibility for systems of records under the Privacy Act. Includes Headquarters United States Air Force staff agencies; major commands; field operating agencies; installations and activities, and headquarters of combatant commands for which Air Force is Executive Agent. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who request access to, or amendment of records about themselves under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, legal opinions, messages, and miscellaneous documents relating to an individual's request for access to or amendment of records concerning that person, including letters of denial, appeals, statements of disagreements, and related documents accumulated in processing requests received under the Privacy Act of 1974.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 5 U.S.C. 552a, The Privacy Act of 1974; and Air Force Instruction 33–332, Air Force Privacy Act Program.

PURPOSE(S):

To record, process and coordinate individual requests for access to, or amendment of, personal records, and appeals on denials of requests for access or amendments to personal records; and to compile information for reports, and to ensure timely response to requesters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

May be disclosed to the Office of Management and Budget or other Government agencies having a direct interest in monitoring or evaluating compliance with the provisions of the Privacy Act, including the preparation of special studies or reports on the status of actions taken to comply with the Act, the results of those efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures.

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computers and computer output products.

RETRIEVABILITY:

Retrieved by name of requester.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties and who are properly screened

and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Granted access requests; responses to requests for non-existent records, inadequate descriptions, and failure to pay agency fees that are not appealed, are destroyed 2 years after date of reply; denied access requests not appealed are destroyed 5 years after date of reply; denied access requests appealed, and requests to amend are destroyed with the approved disposition instructions of the related subject individual's record, 4 years after final agency determination, or 3 years after final adjudication by courts whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act managers at installations, bases, units, organizations, and offices. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to or visit the appropriate system manager.

Written requests should include the person's full name, and other personal information which could be verified from the person's file.

For personal visits, the individual should present a valid identification card or driver's license and some verbal information which could be verified from the person's case file. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the appropriate system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Written requests should include the person's full name, and other personal information which could be verified from the person's file.

For personal visits, the individual should present a valid identification card or driver's license and some verbal information which could be verified from the person's case file. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Those individuals who submit initial requests, the agency records searched in the process of responding to such requests; Air Force personnel assigned to handle such requests; other agencies or entities that have referred requests concerning Department of the Air Force records, or that have consulted with the Department of the Air Force regarding the handling of particular requests; and submitters of records or information that have provided assistance to the Department of the Air Force in making FOIA access determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

During the course of a Privacy Act (PA) action, exempt materials from other systems of records may become part of the case records in this system of records. To the extent that copies of exempt records from those 'other' systems of records are entered into these PA case records, the Department of the Air Force hereby claims the same exemptions for the records as they have in the original primary systems of records which they are a part.

Department of the Air Force exemption rules have been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 03–8215 Filed 4–4–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Elementary and Secondary Education Act; Implementation

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of proposed deadlines for final implementation.

The Deputy Under Secretary for Safe and Drug-Free Schools proposes deadline dates for final implementation of requirements under the Unsafe School Choice Option (USCO), under section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001. This notice proposes deadlines by which each State must identify persistently dangerous schools, as well as offer students in those schools and students who are victims of violent criminal offenses while on school property the opportunity to transfer to a safe school.

DATES: We must receive your comments on or before May 7, 2003.

ADDRESSES: Address all comments about this notice to William Modzeleski, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E314, Washington, DC 20202–6123. If you prefer to send your comments through the Internet, use the following address: *safeschl@ed.gov.* Please specify ''USCO Comments'' in the subject line of your electronic message.

If you want to comment on the information collection requirements, you must send your comments to the Department representative named in that section.

FOR FURTHER INFORMATION CONTACT: Kristen Hayes, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E340, Washington, DC 20202–6123. Telephone: (202) 708–9431. Or via Internet: *Kristen.Hayes@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.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this notice of proposed deadlines. We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this notice. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice of proposed deadlines in Room 3E314, FB6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public record for this notice of proposed deadlines. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Proposed Deadlines and Affected Parties

We propose establishing two deadlines related to implementation of the USCO provisions: (1) The date by which each State must identify persistently dangerous public elementary and secondary schools; and (2) the date by which each State must allow students who attend a persistently dangerous school, and students who are victims of violent criminal offenses while at school or on the grounds of the school, to transfer to a safe school.

We propose that each State identify those schools that meet its definition of a persistently dangerous school by *July 1, 2003 and each July 1st thereafter,* and that each State allow students attending a persistently dangerous public elementary or secondary school to transfer to a safe school *by the start of the 2003–2004 school year and by the start of every school year thereafter.* We propose that, *by the start of the 2003–2004 school year,* each State must have in place its policy to allow students who are victims of violent criminal offenses while in or on the grounds of a school they attend to transfer to a safe public school. We recognize that the start of the school year will vary from local educational agency (LEA) to LEA. The opportunity to transfer provided by USCO must be offered to affected students by the start of the school year in their LEA. This policy would remain in place for future years. Changes, consistent with statutory requirements, may be made as needed by the State.

Background

Title IX, section 9532 of the Elementary and Secondary Education Act as reauthorized by the No Child Left Behind Act 2001 establishes the USCO requirements. Accordingly, each State receiving ESEA funds must establish and implement a statewide USCO policy. This policy must provide to a student attending a persistently dangerous public elementary or secondary school the opportunity to transfer to a safe public elementary school or secondary school (which may be a public charter school) within the LEA in which the student is currently enrolled. This policy must provide the same transfer opportunity to a student who becomes the victim of a violent criminal offense while in or on the grounds of that student's public elementary or secondary school.

Each State must establish a policy to address both USCO provisions after consultation with a representative sample of LEAs.

Section 9532 requires that, as a condition of receiving ESEA funds, each State certify to the Secretary that it is in compliance with the USCO requirements. Each State has already provided the required certification in its application for ESEA funding available on July 1, 2002. However, we recognized that not all States were able to meet all of the requirements of the USCO by that date. Thus, we permitted each State to ''qualify'' its respective certification, pending completion of the activities necessary to comply with the USCO provisions, and to report quarterly on its progress toward full compliance. We also issued draft non-regulatory guidance in July 2002 that outlined the implementation steps that would constitute full compliance with the USCO provisions.

We propose these deadlines to ensure that students who attend persistently dangerous schools or who are the victims of violent criminal offenses while in school or on school grounds are offered the opportunity to transfer to a safe public school as quickly as possible. Such transfers will help ensure the opportunity for students to learn in a safe environment.

We believe that the proposed deadlines appropriately balance the amount of time needed by each State to implement these provisions with the compelling interest of having students attend a safe school.

Paperwork Reduction Act of 1995

Although the Department of Education is not collecting data, the statute does contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education submitted a copy of the information collection to the Office of Management and Budget (OMB) for its review and approval.

We estimate annual recordkeeping burden for this collection of information to average 20 hours for each of 56 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, we estimate the total annual reporting and recordkeeping burden for this collection to be 1120 hours.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

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.

You may also view this document in text or PDF at the following site: *http://www.ed.gov/offices/OSDFS/index.html.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 7912.

Dated: April 4, 2003.

Judge Eric Andell,

Deputy Under Secretary for Safe and Drug-Free Schools.

[FR Doc. 03–8400 Filed 4–4–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–101–B]

Application To Export Electric Energy; Avista Corporation

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Avista Corporation (Avista) has applied to amend its authorization to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 7, 2003.

ADDRESSES: Comments, protests or requests to intervene should be

addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On October 17, 1994, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued Order No. EA–101 authorizing Avista (formerly Washington Water Power Company) to transmit electric energy from the United States to Canada using the international electric transmission facilities owned and operated by Bonneville Power Administration (BPA). That Order authorized Avista to export firm capacity and associated energy only for the months of November, December, January, and February, and at a maximum rate of transmission of 100 megawatts (MW). On October 23, 1995, in Order No. EA–101–A, FE amended the previous electricity export authorization by authorizing exports during each month of the calendar year and at a maximum rate of transmission of 400 MW.

On November 8, 2000, Avista filed an application with FE to amend Order No. EA–101–A by increasing the maximum rate of transmission to 1,000 MW. Notice of receipt of that application appeared in the **Federal Register** on November 20, 2000. No comments were received during the 30-day comment period. On February 12, 2003, Avista submitted an amended application. In the amended application, Avista changed its request for a 1,000-MW export limit and, instead, requests that the authorized export limit be changed from 400 MW to an amount not to exceed the reliability and physical limits of the international transmission facilities presently owned by BPA. In its amended application, Avista clarified that the electric energy to be exported will be sold on an ''as available'' basis as system conditions dictate and as surpluses are available.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Avista application to export electric energy to Canada should be clearly marked with Docket EA–101–B. Additional copies are to be filed directly with Richard L. Storro, Manager, Wholesale Power, Avista Corporation, P.O. Box 3727, Spokane, Washington 99220–3727 *AND* R. Blair Strong, Paine, Hamblen, Coffin, Brooke and Miller, 717 W. Sprague, Suite 1200, Spokane, WA 99201–3505.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order Nos. EA–101 and EA–101–A. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the previous proceedings.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the FE Home Page at *http://www.fe.de.gov.* Upon reaching the FE Home page, select ''Electricity Regulation'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on March 31, 2003.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 03–8378 Filed 4–4–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

April 2, 2003.

The following notice of meeting is published pursuant to Section 3(A) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 9, 2003, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, telephone (202) 502–8400 for a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

824th Meeting—April 9, 2003; Regular Meeting, 10:00 a.m.

Administrative Agenda

A–1.
Docket# AD02–1, 000, Agency Administrative Matters

A–2.
Docket# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

Markets, Tariffs and rates—Electric

E–1.
Omitted

E–2.
Docket# ER03–300, 000, Pacific Gas and Electric Company
Other#s ER03–300, 001, Pacific Gas and Electric Company

E–3.
Docket# ER03–401, 000, Midwest Independent Transmission System Operator, Inc.
Other#s ER03–401, 001, Midwest Independent Transmission System Operator, Inc.

E–4.
Omitted

E–5.
Docket# ER03–547, 000, Southwest Power Pool, Inc.

E–6.
Docket# ER03–249, 000, Illinois Power Company
Other#s ER03–249, 001, Illinois Power Company

E–7.
Docket# ER03–560, 000, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation

E–8.
Docket# ER00–1053, 006, Maine Public Service Company
Other#s ER00–1053, 007, Maine Public Service Company
ER00–1053, 008, Maine Public Service Company

E–9.
Docket# ER98–1438, 012, Midwest Independent Transmission System Operator, Inc.
Other#s ER98–1438, 013, Midwest Independent Transmission System Operator, Inc.
ER02–111, 004, Midwest Independent Transmission System Operator, Inc.
ER02–111, 005, Midwest Independent Transmission System Operator, Inc.

E–10.

Docket# ER03–13, 001, New York Independent System Operator, Inc.
Other#s ER03–13, 002, New York Independent System Operator, Inc.
E–11.
Docket# ER01–3000, 006, International Transmission Company
Other#s RT01–101, 006, International Transmission Company
EC01–146, 006, DTE Energy Company
E–12.
Omitted
E–13.
Docket# ER02–1783, 000, Entergy Services, Inc.
E–14.
Docket# ER03–95, 001, American Electric Power Service Corporation
E–15.
Omitted
E–16.
Docket# ER98–3760, 006, California Independent System Operator Corporation
Other#s EC96–19, 057, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 060, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
E–17.
Docket# ER02–1021, 002, Ontario Energy Trading International Corp.
E–18.
Omitted
E–19.
Omitted
E–20.
Omitted
E–21.
Docket# PA02–2, 002, Fact-Finding Investigation into Possible Manipulation of Electric and Natural Gas Prices
E–22.
Omitted
E–23.
Docket# ER02–2595, 001, Midwest Independent Transmission System Operator, Inc.
E–24.
Docket# ER03–238, 001, New York Independent System Operator, Inc.
Other#s ER03–238, 002, New York Independent System Operator, Inc.
E–25.
Docket# EL02–41, 001, Pittsfield Generating Company, L.P.
Other#s QF88–21, 010, Pittsfield Generating Company, L.P.
E–26.
Omitted
E–27.
Docket# ER03–169, 001, Tampa Electric Company
E–28.
Docket# RM00–7, 008, Midwest Independent Transmission System Operator, Inc., New York Independent System Operator, Inc., PJM Interconnection, L.L.C.
E–29.
Docket# NJ03–1, 000, Sunflower Electric Power Corporation
E–30.
Docket# EL03–48, 000, Oildale Energy LLC
Other#s QF84–518, 005, Oildale Energy LLC
E–31.
Docket# ER02–1741, 001, Nevada Power Company
Other#s ER02–1742, 001, Nevada Power Company
ER02–2344, 000, Southern California Edison Company
E–32.
Docket# EL01–93, 005, ISO New England, Inc.
Other#s EL01–93, 006, ISO New England, Inc.
E–33.
Docket# ER02–1264, 000, Cabrillo Power I LLC and Cabrillo Power II LLC

Miscellaneous Agenda

M–1.
Docket# RM02–7, 000, Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations
M–2.
Docket# RM02–14, 000, Regulation of Cash Managment Practices
M–3.
Docket# RM03–6, 000, Amendments to Conform Regulations with Order No. 630 (Critical Energy Infrastructure Information Final Rule)

Markets, Tariffs and Rates—Gas

G–1.
Docket# RP03–188, 000, East Tennessee Natural Gas Company
Other#s RP03–188, 001, East Tennessee Natural Gas Company
G–2.
Omitted
G–3.
Omitted
G–4.
Docket# RP03–172, 000, Transcontinental Gas Pipe Line Corporation
G–5.
Docket# PR02–18, 000, Nicor Gas
Other#s PR02–18, 001, Nicor Gas
PR02–18, 002, Nicor Gas
G–6.
Docket# RP02–241, 000, Williams Gas Pipelines Central, Inc.
Other#s RP02–241, 001, Williams Gas Pipelines Central, Inc.
RP02–241, 002, Williams Gas Pipelines Central, Inc.
G–7.
Docket# RP00–407, 003, High Island Offshore System, L.L.C.
Other#S RP00–619, 004, High Island Offshore System, L.L.C.
RP03–118, 000, High Island Offshore System, L.L.C.
G–8.
Docket# RP02–13, 005, Portland Natural Gas Transmission System
G–9.
Docket# RP00–414, 001, PG&E Gas Transmission, Northwest Corporation
Other#s RP01–15, 002, PG&E Gas Transmission, Northwest Corporation
G–10.
Docket# RP03–221, 001, High Island Offshore System, L.L.C.
G–11.
Docket# RP00–479, 001, Trailblazer Pipeline Company
Other#s RP00–479, 002, Trailblazer Pipeline Company
RP00–624, 001, Trailblazer Pipeline Company
RP00–624, 002, Trailblazer Pipeline Company
G–12.
Docket# RP00–332, 002 ANR Pipeline Company
Other#s RP00–332, 003, ANR Pipeline Company
RP00–597, 002, ANR Pipeline Company
RP03–182, 000, ANR Pipeline Company
G–13.
Docket# CP00–6, 007, Gulfstream Natural Gas System, L.L.C.
Other#s CP00–6, 008, Gulfstream Natural Gas System, L.L.C.
RP03–173, 000, Gulfstream Natural Gas System, L.L.C.
G–14.
Docket# GT02–34, 002, Natural Gas Pipeline Company of America
Other#s GT02–34, 001, Natural Gas Pipeline Company of America
G–15.
Docket# RP03–19, 002, Florida Gas Transmission Company
G–16.
Docket# RP02–335, 001, ANR Pipeline Company
G–17.
Docket# RP03–162, 002, Trailblazer Pipeline Company
G–18.
Docket# RP98–53, 026, Kinder Morgan Interstate Gas Transmission L.L.C.
Other#s GP98–29, 001, ONEOK Resources Company
G–19.
Docket# RP03–20, 002, Transwestern Pipeline Company
Other#s RP03–20, 001, Transwestern Pipeline Company
G–20.
Docket# RP02–362, 004, PG&E Gas Transmission, Northwest Corporation
Other#s RP02–362, 003, PG&E Gas Transmission, Northwest Corporation

Energy Projects—Hydro

H–1.
Docket# P–6058, 007, Hydro Development Group, Inc.
Other#s P–6058, 008, Hydro Development Group, Inc.
P–6059, 007, Hydro Development Group, Inc.
P–6059, 008, Hydro Development Group, Inc.
H–2.
Docket# P–2311,047, Great Lakes Hydro America, LLC
Other#s P–2288, 042, Public Service Company of New Hampshire
H–3.
Docket# P–2114, 111, The Yakama Nation v. Public Utilities District No. 2 of Grant County, Washington
H–4.
Docket# P–400, 038, Willard Janke v. Public Service Company of Colorado

Energy Projects—Certificates

C–1.
Docket# CP02–379, 001, Southern LNG Inc.
Other#s CP02–379, 000, Southern LNG Inc.
CP02–380, 000, Southern LNG Inc.
CP02–380, 001, Southern LNG Inc.
C–2.
Docket# CP02–90, 000, AES Ocean Express, LLC
Other#s CP02–90, 001, AES Ocean Express, LLC
CP02–91, 000, AES Ocean Express, LLC
CP02–92, 000, AES Ocean Express, LLC
CP02–93, 000, AES Ocean Express, LLC
CP02–93, 001, AES Ocean Express, LLC
C–3.
Docket# CP01–444, 000, Tractebel Calypso Pipeline, LLC
Other#s CP01–444, 001, Tractebel Calypso Pipeline, LLC
CP01–444, 002, Tractebel Calypso Pipeline, LLC
C–4.
Docket# CP01–79, 000, ANR Pipeline Company
C–5.
Docket# CP01–388, 002, Transcontinental Gas Pipe Line Corporation
C–6.
Omitted
C–7.
Docket# CP02–396, 001, Greenbrier Pipeline Company, LLC
Other#s CP02–396, 000, Greenbrier Pipeline Company, LLC
CP02–397, 000, Greenbrier Pipeline Company, LLC
CP02–397, 001, Greenbrier Pipeline Company, LLC
CP02–398, 000, Greenbrier Pipeline Company, LLC
CP02–398, 001, Greenbrier Pipeline Company, LLC

Magalie R. Salas,

Secretary.

[FR Doc. 03–8497 Filed 4–3–03; 10:46 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend; Sunshine Act

April 2, 2003.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY: Federal Energy Regulatory Commission.

DATE AND TIME: April 9, 2003 (Within a relatively short time before or after the regular Commission Meeting).

PLACE: Hearing Room 6, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries, and Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

Chairman Wood and Commissioners Massey and Brownell voted to hold a closed meeting on April 9, 2003. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8498 Filed 4–3–03; 10:46 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects—Extension of Transmission and Ancillary Service Rates—Rate Order No. WAPA–101

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: This action is being taken to extend the existing Loveland Area Projects (LAP) Transmission and Ancillary Service rates, Rate Order No. WAPA–80, and Energy Imbalance Service rate, Rate Order No. WAPA–97, through March 31, 2004. The existing LAP Transmission and Ancillary Service rates and the Energy Imbalance Service rate will expire March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Payton, Rates Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, (970) 461–7442, or e-mail *dpayton@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–0037.00 approved December 6, 2001, the Secretary delegated: (1) The authority to develop long-term power and transmission rates on a non-exclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

The Deputy Secretary approved the existing Rate Schedules L–NT1, L–FPT1, L–NFPT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, and L–AS6 on March 23, 1998 (Rate Order No. WAPA–80, 63 FR 16778, April 6, 1998). FERC confirmed and approved the formula rate schedules for Rate Order No. WAPA–80 on July 21, 1998, under FERC Docket No. EF98–5181–000 (at 84 FERC ¶ 61,066). The existing formula rates became effective on April 1, 1998, and are approved through March 31, 2003.

Subsequently, Rate Schedule L–AS4, Energy Imbalance Service, was revised and approved by the Secretary on May 30, 2002 (Rate Order No. WAPA–97, 67 FR 39970, June 11, 2002). Rate Order No. WAPA–97 became effective July 1, 2002, and is approved through March 31, 2003. FERC confirmed and approved the formula rate schedule for Energy Imbalance Service on February 3, 2003 (Docket No. EF02–5181–000).

Western's existing formula rate schedules, which are recalculated annually, will sufficiently recover project expenses (including interest) and capital requirements through the extension period. Western is seeking this extension to provide more time for the evaluation of new rates for ancillary services, particularly energy imbalance and regulation, and to provide a concurrent public process and rate approval period for new rates for firm electric service, transmission service, and ancillary services. For these reasons, Western is extending the existing rates for transmission and ancillary services through March 31, 2004, under 10 CFR part 903.23(b).

I approved Rate Order No. WAPA–101 after DOE reviewed Western's proposal. My approval extends the existing LAP transmission and ancillary services rate schedules L–NT1, L–FPT1, L–NFPT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, and L–AS6 through March 31, 2004.

Dated: March 20, 2003.

Kyle E. McSlarrow,

Deputy Secretary.

Order Confirming and Approving an Extension of the Loveland Area Projects Transmission and Ancillary Service Rates

The Loveland Area Projects (LAP) Transmission and Ancillary Service rates were established following section

302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a). This act transferred to and vested in the Secretary of Energy (Secretary) the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and other acts that specifically apply to the project system involved.

By Delegation Order No. 00–0037.00 approved December 6, 2001, the Secretary delegated: (1) The authority to develop long-term power and transmission rates on a non-exclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This rate extension is issued following the Delegation Order and the DOE rate extension procedures at 10 CFR part 903.23(b).

Background

The Deputy Secretary approved the existing Rate Schedules L–NT1, L–FPT1, L–NFPT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, and L–AS6 on March 23, 1998 (Rate Order No. WAPA–80, 63 FR 16778, April 6, 1998). FERC confirmed and approved the formula rate schedules for Rate Order No. WAPA–80 on July 21, 1998, under FERC Docket No. EF98–5181–000 (at 84 FERC ¶ 61,066). The existing formula rates became effective on April 1, 1998, and are approved through March 31, 2003.

Subsequently, Rate Schedule L–AS4, Energy Imbalance Service, was revised and approved by the Secretary on May 30, 2002 (Rate Order No. WAPA–97, 67 FR 39970, June 11, 2002). Rate Order No. WAPA–97 became effective July 1, 2002, and is approved through March 31, 2003. FERC confirmed and approved the formula rate schedule for Energy Imbalance Service on February 3, 2003 (Docket No. EF02–5181–000).

Discussion

On March 31, 2003, Western's LAP Transmission and Ancillary Service rates and the Energy Imbalance Service rate expire. Western's existing formula rate schedules, which are recalculated annually, will sufficiently recover project expenses (including interest) and capital requirements through the extension period. Western is seeking this extension to provide more time for the evaluation of new rates for ancillary services, particularly energy imbalance and regulation, and to provide a concurrent public process and rate approval period for new rates for firm electric service, transmission service, and ancillary services.

The process will take several months to complete because of the complex issues Western and its interested public must address. It will also offer opportunities for public information and comment forums.

For these reasons, Western seeks to extend existing Rate Schedules L–NT1, L–FPT1, L–NFPT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, and L–AS6 under 10 CFR 903.23(b) through March 31, 2004.

Order

In view of the above and under the authority delegated to me by the Secretary, I hereby extend the existing Rate Schedules L–NT1, L–FPT1, L–NFPT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, and L–AS6 for LAP Transmission and Ancillary services from April 1, 2003, through March 31, 2004.

Dated: March 20, 2003.

Kyle E. McSlarrow,

Deputy Secretary.

[FR Doc. 03–8377 Filed 4–4–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7476–8]

Request for Applications for the National Environmental Education Advisory Council

SUMMARY: Section 9 (a) and (b) of the National Environmental Education Act of 1990 (Pub. L. 101–619) mandates a National Environmental Education Advisory Council. The Advisory Council provides advice, consults with, and makes recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters relating to the activities, functions, and policies of EPA under the Act. EPA is requesting nominations of candidates for membership on the Council. The Act requires that the Council be comprised of eleven (11) members appointed by the Administrator of EPA. Members represent a balance of perspectives, professional qualifications, and experience. The Act specifies that members must represent the following:

- Primary and secondary education (one of whom shall be a classroom teacher)—two members;
- Colleges and universities—two members; Not-for-profit organizations involved in environmental education—two members;
- State departments of education and natural resources—two members;
- Business and industry—two members;
- Senior Americans—one member.

Members are chosen to represent various geographic regions of the country, and the Council strives for a diverse representation. The professional backgrounds of Council members should include education, science, policy, or other appropriate disciplines. Each member of the Council shall hold office for a one (1) to three (3) year period. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Members of the Council shall receive compensation and allowances, including travel expenses, at a rate fixed by the Administrator.

There are currently three (3) vacancies on the Advisory Council that must be filled:

- Business and Industry—one vacancy (2003–2006);
- Non-Profit Organization—one vacancy (2003–2005);
- Senior American—one vacancy (2003–2005).

Additionally, there will be three (3) vacancies on the Advisory Council beginning in June 2003 that must be filled:

- Business and Industry—one vacancy (2003–2005);
- Primary and Secondary Education—one vacancy (2003–2006);
- State Department of Natural Resources—one vacancy (2003–2006).

EPA particularly seeks candidates with demonstrated experience and/or knowledge in any of the following environmental education issue areas:

- Integrating environmental education into state and local education reform and improvement;
- State, local and tribal level capacity building;
- Cross-sector partnerships; leveraging resources for environmental education;
- Design and implementation of environmental education research;
- Professional development for teachers and other education professionals; and
- Targeting under-represented audiences, including low-income and multi-cultural audiences, senior citizens, and other adults.

Additional Considerations:

The Council is looking for individuals who demonstrate the following:

- Ability to make the time commitment;
- Strong leadership skills;
- Strong analytical and writing skills;
- Ability to stand apart and evaluate programs in an unbiased fashion;
- Team players;
- Conviction to follow-through and to meet deadlines;
- Ability to review items on short notice.

DATES: Applications to fill all of the identified vacancies on the Council for 2003 must be submitted no later than July 1, 2003. The application must include the following:

- Name/address/phone/e-mail of applicant;
- 1–2 page resume (Please detail environmental education experience.);
- Two (2) letters of support for the applicant;
- One (1) page statement by the applicant on his/her personal perspective on environmental education. This must not exceed one (1) page.

Please note that meetings will be held subject to availability of funds.

ADDRESSES: Submit nominations to Ginger Potter, Designated Federal Official, Office of Environmental Education, Office of Public Affairs (1704A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ginger Potter at the above address, or call (202) 564–0453; E-mail address: *potter.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: The Council provides the Administrator with advice and recommendations on EPA implementation of the National Environmental Education Act. In general, the Act is designed to increase public understanding of environmental issues and problems, and to improve the training of environmental education professionals. EPA will achieve these goals, in part, by awarding grants and/or establishing partnerships with other Federal agencies, state and local education and natural resource agencies, not-for-profit organizations, universities, and the private sector to encourage and support environmental education and training programs. The Council is also responsible for preparing a national biennial report to Congress that will describe and assess the extent and quality of environmental education, discuss major obstacles to improving environmental education, and identify the skill, education, and training needs for environmental professionals.

Dated: March 27, 2003.

CeCe Kremer,

Deputy Associate Administrator, Office of Public Affairs.

[FR Doc. 03–8369 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7476–9]

Notice of Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act to EPA Contractors Booz Allen Hamilton, Incorporated and ASRC Aerospace Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: EPA hereby complies with the requirements of 40 CFR 2.301(h) for authorization to disclose to its contractor, Booz Allen Hamilton, Incorporated (''Booz Allen Hamilton, Incorporated''), of McLean, Virginia, Superfund confidential business information (''CBI'') which has been submitted to EPA Region 1, Office of Site Remediation and Restoration, Search and Cost Recovery Section, Booz Allen Hamilton, Incorporated principal offices are located at 8283 Greensboro Drive, McLean, VA 20770, and ASRC Aerospace Corporation (hereinafter ''ASRC Aerospace Corporation''), of Greenbelt, Maryland, Superfund confidential business information (''CBI'') which has been submitted to EPA Region 1, Office of Site Remediation and Restoration, Search and Cost Recovery Section, ASRC Aerospace Corporation's principal offices are located at 6301 Ivy Lane, Suite 300, Greenbelt, Maryland 20770.

DATES: Comments are due by April 17, 2003.

ADDRESSES: Comments should be submitted to Patricia M. Inglis, Office of Site Remediation and Restoration, U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114–2023.

FOR FURTHER INFORMATION CONTACT: Patricia M. Inglis at (617) 918–1413.

SUPPLEMENTARY INFORMATION:

Notice of Required Determines, Contract Provisions and Opportunity to Comment

A. Booz Allen Hamilton, Incorporated

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (''CERCLA''), as amended, (commonly known as ''Superfund'') requires the establishment of an administrative record upon which the President shall base the selection of a response action. CERCLA also requires the maintenance of many other records, including those relevant to cost recovery. EPA has entered into a contract, No. R16800391 with A. Booz Allen Hamilton, Incorporated for management of these records. EPA Region 1 has determined that disclosure of CBI to Booz Allen Hamilton, Incorporated employees is necessary in order that Booz Allen Hamilton, Incorporated may carry out the work required by that contract with EPA. The contract complies with all requirements of 40 CFR 2.301(h)(2)(ii). EPA Region 1 will require that each Booz Allen Hamilton, Incorporated employee sign a written agreement that he or she (1) will use the information only for the purpose of carrying out the work required by the contract, (2) shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and (3) shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information is no longer required by Booz Allen Hamilton, Incorporated for performance of the work required by the contract, or upon completion of the contract. These non-disclosure statements shall be maintained on file with the Region 1 Delivery Order Project Officer. Booz Allen Hamilton, Incorporated employees will be trained on Superfund CBI requirements.

B. ASRC Aerospace Corporation

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (''CERCLA''), as amended, (commonly known as ''Superfund'') requires the establishment of an administrative record upon which the President shall base the selection of a response action. CERCLA also requires the maintenance of many other records, including those relevant to cost recovery. EPA has entered into a contract, No. 68-R1–02–01 with ASRC Aerospace Corporation for management of these records. EPA Region 1 has determined that disclosure of CBI to ASRC Aerospace Corporation employees is necessary in order that ASRC Aerospace Corporation may carry out the work required by that contract with EPA. The contract complies with all requirements of 40 CFR

2.301(h)(2)(ii). EPA Region 1 will require that each ASRC Aerospace Corporation employee sign a written agreement that he or she (1) will use the information only for the purpose of carrying out the work required by the contract, (2) shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and (3) shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information is no longer required by ASRC Aerospace Corporation for performance of the work required by the contract, or upon completion of the contract. These non-disclosure statements shall be maintained on file with the Region 1 Delivery Order Project Officer. ASRC Aerospace Corporation employees will be trained on Superfund CBI requirements.

EPA hereby advises affected parties that they have ten working days to comment pursuant to 40 CFR 2.301(h)(2)(iii).

Dated: March 20, 2003.

Stanley D. Chin,

Acting Director, Office of Site Remediation and Restoration, Region 1.

[FR Doc. 03–8368 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0112; FRL–7299–9]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group; Working Committee on Water Quality and Pesticide Disposal; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal (WC/WQPD) will hold a 2–day meeting, beginning on April 28, 2003 and ending April 29, 2003. This notice announces the location and times for the meeting, and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 28, 2003, from 8:30 a.m. until 5 p.m., and April 29, 2003, from 8:30 a.m. until noon.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 300 Army-Navy Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: mcduffie.georgia@epa.gov.

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax (802) 472–6957; e-mail address: aapco@plainfield.bypass.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental pesticides, and insight into EPA's decision-making process.

This action is directed to the public in general, and may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get 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 OPP–2003–0112. 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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.

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 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. Tentative Agenda

This unit provides tentative agenda topics for the 2–day meeting.

1. Atrazine Interim Reregistration Eligibility Decision (IRED) and Memorandum of Understanding (MOU) with registrants.

2. Shallow ground water definition (for precautionary label statements and directions).

3. Disposal Label Language Issue Team.

4. CCA cancellation update.

5. Association of State and Interstate Water Pollution Control Administration Project Report.

6. Registration mechanisms - review and discussion.

7. Water Quality Registration Issue Team - Approval of EPA operating procedure.

8. Membership recruiting discussion.

9. Planning for joint meeting with Working Committee on Pesticide Operations Management (WC/POM).

10. WQ/PD Working Committee Workgroups/Updates.

11. EPA update/briefing.

a. Office of Pesticide Programs update.

b. Office of Enforcement and Compliance Assurance update.

List of Subjects

Environmental protection, Pesticide pests.

Dated: March 21, 2003.

Jay Ellenberger,

Associate Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 03–8371 Filed 4–4–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 27, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 6, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202–418–0217 or via the Internet at *leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0748.

Title: Section 64.1504, Disclosure Requirements for Information Services Provided Through Toll-Free Numbers.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3,750.

Estimated Time per Response: 2–5 hours.

Frequency of Response: Third party disclosure.

Total Annual Burden: 10,500 hours.

Total Annual Cost: None.

Needs and Uses: 47 CFR section 64.1504 incorporates in the Commission's Rules, the requirements of sections 228(c)(7)–(10) that restrict the manner in which toll-free numbers may be used to charge telephone subscribers for information services. Common carriers must prohibit the use of toll-free numbers in a manner that would result in the calling party being charged for information conveyed during the call, unless the calling party (1) has executed a written agreement that specifies the material terms and conditions under which the information is provided, or (2) pays for the information by means of a prepaid account, credit, debit, charge, or calling card and the information service provider includes in response to each call an introductory message disclosing specified information detailing the cost and other terms and conditions for the service. The disclosure requirements are intended to ensure that consumers know when charges will be levied for calls to toll-free numbers and are able to obtain information necessary to make informed choices about whether to purchase toll-free information services.

OMB Control No.: 3060–0749.

Title: Section 64.1509, Disclosure and Dissemination of Pay-Per-Cal Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 25 respondents.

Estimated Time per Response: 410 hours.

Frequency of Responses: Annual and on occasion reporting requirements; Third party disclosure.

Total Annual Burden: 10,250 hours (multiple responses).

Total Annual Cost: None.

Needs and Uses: Common carriers that assign telephone numbers to pay-per call services must disclose to all interested parties, upon request, a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available (1) a description of the pay-per-call services; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per call services must establish a toll-free number that consumers may call to receive information about pay-per-call services. Finally, the Commission requires carriers to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually.

OMB Control Number: 3060–0752.

Title: Section 64.1510, Billing Disclosure Requirements for Pay-Per-Call and Other Information Services.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,350.

Estimated Time per Response: 10–40 hours.

Frequency of Response: Annual reporting requirement; Third party disclosure.

Total Annual Burden: 54, 000 hours.

Total Annual Cost: None.

Needs and Uses: Under 47 CFR Section 64.1510, telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that (1) the charges are for non-communication services; (2) local and long distance telephone services may not be disconnected for failure to pay-per-call charges; (3) pay-per call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay-per-call charges. In addition, each call billed must show the type of services, the amount of the charge, and the date, time, and duration of the call. Finally, the bill must display a toll-free number which subscribers may call to obtain information about pay-per-call services. Similar billing disclosure requirements apply to charges for information services either billed to subscribers on a collect basis or accessed by subscribers through a toll-free number. The billing disclosure requirements are intended to ensure that

telephone subscribers billed for pay-per-call or other information services can understand the charges levied and are informed of their rights and responsibilities with respect to payment of such charges.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–8299 Filed 4–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Banking Policy; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a meeting of the FDIC Advisory Committee on Banking Policy (''Advisory Committee''), which will be held at the FDIC office in Arlington, Virginia. The Advisory Committee will provide advice and recommendations on a broad range of issues relating to the FDIC's mission and activities.

Time and Place: Tuesday, April 22, 2003, from 9 a.m. to 12:30 p.m., and 1:30 p.m. and 3:30 p.m. The meeting will be held in Meeting Room A at the FDIC Seidman Center, located at 1001 North Monroe Street, Arlington, Virginia.

Agenda: The agenda items include discussion of the FDIC regional and field office structure, the future of financial regulation, and the future of banking. Agenda items are subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide antendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–3742.

Dated: April 2, 2003.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 03–8334 Filed 4–4–03; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 21, 2003.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Tommy W. Ross, Milan, Tennessee; to acquire additional voting shares of Hometown Bancorp, Inc., Milan, Tennessee, and thereby indirectly acquire additional voting shares of The Bank of Milan, Milan, Tennessee.

Board of Governors of the Federal Reserve System, April 1, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–8311 Filed 4–4–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 2003.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Premier Bancshares, Inc., Dallas, Texas, and Premier Delaware Bancshares, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Synergy Bank, SSB, Waco, Texas, and thereby indirectly acquire Synergy Financial Group, Waco, Texas.

Board of Governors of the Federal Reserve System, April 1, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–8310 Filed 4–4–03; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Proposed Revisions to a Privacy Act System of Records

AGENCY: General Services Administration.

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: The General Services Administration (GSA) proposes to revise

an existing system of records titled ''Investigation Case Files'' (GSA/ADM–24), last published on July 25, 1996 (61 FR 38752). The system of records, maintained by GSA's Office of Inspector General (OIG), is being revised to comply with requirements established by the Homeland Security Act of 2002 (Pub. L. 107–296, Nov. 25, 2002). The major change to the system is the addition of a new routine use to allow the disclosure of information to authorized officials within the President's Council on Integrity and Efficiency (PCIE), who are charged with the responsibility for conducting qualitative assessment reviews of investigative operations for the purpose of reporting to the President and Congress on the activities of the OIG. A minor change consisting of substituting a sequential numbering system for the current alphabetical system under routine uses in the Privacy Act notice also will be made for easier reference.

DATES: Any interested persons may submit written comments on this proposal. It will become effective without further notice on May 7, 2003 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments should be submitted to the Office of Counsel to the Inspector General (JC), Office of Inspector General, General Services Administration, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: GSA Privacy Act Officer, General Services Administration, Office of the Chief People Officer, 1800 F Street, NW., Washington, DC 20405; telephone (202) 501–1452.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the **Federal Register** when there is a revision, change, or addition. GSA's Office of Inspector General (OIG) has reviewed its systems of records notices and has determined that its record system, Investigation Case Files (GSA/ADM–24), must be revised to add a routine use in order to comply with the Homeland Security Act of 2002. Specifically, section 812, subsection (7) of that Act reads as follows: ''To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.'' The additional routine use would allow the disclosure of information to authorized officials within the PCIE, the Department of Justice, and the Federal Bureau of Investigation, as necessary, for the purpose of conducting qualitative assessment reviews of the OIG's investigative operations to ensure that adequate internal safeguards and management procedures are maintained.

Dated: March 31, 2003.

Daniel K. Cooper,

Director, Information Management Division.

GSA/ADM–24

SYSTEM NAME:

Investigation Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of national security pursuant to Executive Order 11652.

SYSTEM LOCATION:

This system is located in the GSA Office of Inspector General, 1800 F Street NW., Washington, DC 20405. The database for the system, known as the Investigations Information System (IIS), is on a local area network in the GS Building and is operated by the System Development and Support Division of the Office of Inspector General (JPM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, former employees, and applicants for employment with GSA, as well as commissions, committees and small agencies serviced by GSA. The system also includes historical researchers, employees of contractors performing custodial or guard services in buildings under GSA control, any person who was the source of a complaint or an allegation that a crime had taken place, a witness who has information or evidence on any side of an investigation, and any possible or actual suspect in a criminal, administrative, or civil action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files containing personal information, including name, date and place of birth, experience, and investigative material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3., section 2 *et seq.*

PURPOSE(S):

The system serves as a basis for taking civil, criminal, and administrative actions, including the issuance of subpoenas, security clearances, suitability determinations, and similar authorized activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used by GSA officials and representatives of other government agencies on a need-to-know basis in the performance of their official duties under the authorities set forth above and for the following routine uses:

1. A record of any case in which there is an indication of a violation of law, whether civil, criminal, or regulatory in nature, may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such a violation or charged with enforcing or implementing the law.

2. A record may be disclosed to a Federal, State, local, or foreign agency or to an individual organization in the course of investigating a potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparing for a trial or hearing for such a violation, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, and disclosing the information is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

3. A record relating to a case or matter may be disclosed in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice, even when the agency is not a party to the litigation.

4. A record relating to a case or matter may be disclosed to an actual or potential party or to his or her attorney for the purpose of negotiation or discussion on matters such as settlement of the case or matter, plea-

bargaining, or informal discovery proceedings.

5. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement or that involves a case or matter within the jurisdiction of any agency may be disclosed to the agency to notify it of the status of the case or matter or of any decision or determination that has been made or to make such other inquiries and reports as are necessary during the processing of the case or matter.

6. A record relating to a case or matter may be disclosed to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States, or to an Executive agreement.

7. A record may be disclosed to a Federal, State, local, foreign, or international law enforcement agency to assist in crime prevention and detection or to provide leads for investigation.

8. A record may be disclosed to a Federal, State, local, foreign, tribal or other public authority in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuing of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

9. A record may be disclosed to the public, news media, trade associations, or organized groups when the purpose is educational or informational, such as describing crime trends or distinctive or unique modus operandi, provided that the record does not identify a specific individual.

10. A record may be disclosed to an appeal or grievance examiner, formal complaints examiner, equal opportunity investigator, arbitrator, or other authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. This includes matters and investigations involving the Merit Systems Protection Board or the Office of Special Counsel. A record may also be disclosed to the United States Office of Personnel Management (OPM) in accordance with the agency's responsibility for evaluating Federal personnel management.

11. A record may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the person who is the subject of the record.

12. Information may be disclosed at any stage of the legislative coordination and clearance process to the Office of Management and Budget (OMB) for reviewing of private relief legislation as set forth in OMB Circular No. A–19.

13. A record may be disclosed: (a) To an expert, a consultant, or contractor of GSA engaged in a duty related to an agency function to the extent necessary to perform the function; and (b) to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

14. A record may be disclosed to any official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative operations. This disclosure category includes members of the President's Council on Integrity and Efficiency and officials and administrative staff within their investigative chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, REVIEWING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are kept in files and file folders. Electronic records are stored in an electronic database or on hard or floppy disks and tapes.

RETRIEVABILITY:

Paper records are retrievable manually by name from files indexed alphabetically and filed numerically by location and incident. Electronic records are retrievable by number or letter.

SAFEGUARDS:

Paper records are stored in locked rooms with access limited to authorized personnel. Computer based records are available only to authorized users with a need to know and are protected by a network logon password, user password, and restricted right of access to the software, system, file, data element, and report.

RETENTION AND DISPOSAL:

Records are disposed of by shredding or burning, as scheduled in the HB, GSA Maintenance and Disposition System (OAD P 1820.2A), and the records schedules authorized by that system.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the System Development and Support Division of the Office of Inspector General (JPM). The mailing address is: General Services Administration (JPM), 1800 F Street NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

An individual who wishes to be notified whether the system contains a record concerning him or her should address a request to the Office of Counsel to the Inspector General (JC), General Services Administration, Room 5324, 1800 F Street NW., Washington, DC 20405.

RECORDS ACCESS PROCEDURES:

An individual seeking access to a record should put his or her request in writing and address it to the Office of Counsel to the Inspector General (JC), including full name (maiden name if appropriate), address, and date and place of birth. General inquiries may be made by calling the Office of Counsel to the Inspector General on (202) 501–1932.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the content of a record or appealing a denial of a request to amend a record are in 41 CFR part 105–64 published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The sources are individuals themselves, employees, informants, law enforcement agencies, other government agencies, employers, references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(j), this system of records is exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) of the Act, to the extent that information in the system pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (c) reports of enforcement of the criminal laws, from arrest or

indictment through release from supervision. This system is exempted to maintain the efficacy and integrity of the Office of Inspector General's law enforcement function. In accordance with 5 U.S.C. 552a(k), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4); (G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Office of Inspector General's law enforcement responsibilities and responsibilities in the areas of Federal employment, government contracts, and access to security classified information.

[FR Doc. 03–8309 Filed 4–4–03; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[OS–0990–OWH–NEW–CSS]

Agency Information Collection Activities: Proposed Collection; Comment Request

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.

Type of Information Collection Request: New Collection.

Title of Information Collection: National Women's Health Information Center (NWHIC) Customer Satisfaction Questionnaire.

Form/OMB No.: OS–0990–OWH–NEW–CSS.

Use: The OWH plans to send a customer satisfaction questionnaire to users of NWHIC who have called the 1–800 number. Since its launch in 1998, NWHIC's toll-free number and services have not been evaluated to determine how well it has been fulfilling its goals. The survey is intended to assess the effectiveness of OWH in disseminating information through NWHIC. A random sample of 1,556 NWHIC users (with consent) will be mailed a survey and follow-up letter.

Frequency: One Time.

Affected Public: Individuals.

Annual Number of Respondents: 1,245.

Total Annual Responses: 1,245.

Average Burden Per Response: 9 minutes.

Total Annual Hours: 144.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OS document identifier, to *John.Burke@hhs.gov,* or call the Reports Clearance Office on (202) 690–8356. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice 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:* John Burke (0990–OWH–NEW–CSS), Room 531–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: March 28, 2003.

John P. Burke, III,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 03–8300 Filed 4–4–03; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Opportunity for Cosponsorship of the President's Challenge Physical Activity and Fitness Awards Program; Correction

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of the President's Council on Physical Fitness and Sports.

ACTION: Notice; correction.

SUMMARY: The Office of the President's Council on Physical Fitness and Sports (PCPFS) published a document in the **Federal Register** of March 25, 2003, announcing the opportunity for both non-Federal public and private sector entities to cosponsor activities related to the President's Challenge Physical Activity and Fitness Awards Program. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Christine Spain, (202) 690–5148.

Correction

In the **Federal Register** of March 25, 2003, in FR Doc. 03–7033, on page 14420, in the first column, correct the **DATES** caption to read:

DATES: To receive consideration, a request to participate as a cosponsor must be received by the close of business on May 20, 2003, at the address listed. Requests will meet the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date. Private metered postmarks will not

be acceptable as proof of timely mailing. Hand-delivered requests must be received by 5 p.m. Requests that are received after the deadline date will be returned to the sender.

Dated: April 2, 2003.

Penelope Royall,

Acting Executive Director, President's Council on Physical Fitness and Sports, Department of Health and Human Services.

[FR Doc. 03–8374 Filed 4–4–03; 8:45 am]

BILLING CODE 4150–35–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Family Caregiver Support Program 50-State Survey

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by May 7, 2003.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St., NW., rm. 10235, Washington, DC 20503, Attn: Allison Herron Eydt, Desk Officer for AoA.

FOR FURTHER INFORMATION CONTACT: Brian Lutz, Director, Office of Community Based Services, (202) 357–3530

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, AoA has submitted the following proposed collection of information to OMB for review and clearance.

The collection of this information will serve to profile the experience of states in providing family caregiver support services to the elderly and younger adults with disabilities, following the passage of the NFCSP. The outcomes from this survey will include: cross-cutting policy and service delivery issues, state-by-state demographics, promising practices, types of family caregiver support services available in each state, eligibility and assessment criteria, and other program-specific and state-specific information.

The project's data collection, analysis, reporting and dissemination will occur over an estimated 12-month period. Subject to OMB approval, we anticipate beginning data collection in June 2003 and ending data collection in October 2003. Data will be cleaned, entered, compiled and verified over a three-month period (September 2003–November 2003). Data analysis will be conducted over a three-month period (December 2003–February 2004), and state profiles and state-by-state datasets will be prepared over a subsequent three-month period (March 2004–May 2004). The written report will be completed in June 2004.

AoA estimates the burden of this one-time only collection of information as follows:

Part One Survey—Family Caregiver Alliance:

Number of respondents: Three people per state.

Annual Hour Burden: 30 minutes.

Part Two Follow-Up Telephone Interview—Family Caregiver Alliance

Number of respondents: Three people per state (same population—Part One).

Annual Hour Burden: 30 minutes.

Survey by National Conference of State Legislatures:

Number of respondents: One person per state.

Frequency of response: One time.

Annual Hour Burden: 20 minutes.

Annualized Cost: 80 minutes × 50 × $30/hr/person = $2000.

In the **Federal Register** of December 4, 2002 (07 FR 72216), the agency requested comments on the proposed collection of information. No comments were received.

Dated: April 1, 2003.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 03–8281 Filed 4–4–03; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–03–02]

Fiscal Year 2003 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for ''Senior Medicare Patrol Projects'' for up to 24 cooperative agreements at a federal share of approximately $175,000 per year for a project period of three years.

Legislative authority: The Older Americans Act, Public Law 106–501 (Catalog of Federal Domestic Assistance 93.048, Title IV and Title II Discretionary Projects).

Purpose of grant awards: The purpose of these projects is to test the best ways of using the skills of retired nurses, doctors, accountants and other professionals to train seniors to serve as expert resources to detect and stop health care error, fraud, and abuse. The award is a cooperative agreement because the Administration on Aging will be substantially involved in the development and execution of the activities of the projects. The cooperative agreement will provide for training, technical assistance and support to projects in every state.

Eligibility for grant awards and other requirements: Eligibility for grant awards is limited to public, state and local agencies, federally recognized tribes, or nonprofit agencies, organizations, and institutions in the following states: California, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Wisconsin, and Wyoming—to carry out cooperative agreement awards to train retired persons to serve in their communities as volunteer expert resources and educators in combating health care error, fraud, and abuse. Faith-based organizations are eligible to apply from the states listed above.

The Administration on Aging is currently funding ''Senior Medicare Patrol Projects'' in the remaining 26 states, plus the District of Columbia and Puerto Rico. No further awards will be made in these states.

Grantees are required to provide at least 25% of the total program costs from non-federal cash or in-kind resources in order to be considered for the award.

DATES: The deadline date for the submission of applications is May 22, 2003.

ADDRESSES: Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Office of Consumer Choice and Protection, Washington, DC 20201, attn: Doris Summey, or by calling 202/357–

3533 or 202/357–3532. Applications must be mailed to the above address or hand-delivered to the Office of Grants Management, Room 4604, One Massachusetts Avenue, NW., Washington, DC 20001. Application kits and instructions for electronic mailing of grant applications are available at *http://www.aoa.gov/egrants.*

Dated: April 2, 2003.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 03–8418 Filed 4–4–03; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Availability of Government-Owned Inventions for Licensing

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The inventions named in this notice are owned by agencies of the United States Government. In accordance with 35 U.S.C. 209(e) and to achieve expeditious commercialization of results of federally funded research and development, the inventions are available for licensing in the United States (U.S.). Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Thomas E. O'Toole, M.P.H., Deputy Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop K–79, 1600 Clifton Road, Atlanta, GA 30333, telephone (770) 488–8611; facsimile (770) 488–8615; or e-mail *tto@cdc.gov*. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

Automated Microscopic Image Acquisition, Compositing, and Display (CDC Ref. I–019–00/0), U.S. Patent SN: 10/001,268.

Single Vial Reconstitution System for Lyophilized Vaccines and Other Pharmaceuticals (CDC Ref. I–005–02/0), U.S. Patent SN: 60/391,862.

Molecular Identification of Aspergillus Species (CDC Ref. I–006–02/0), U.S. Patent SN: 60/381,463.

Integration of Gene Expression Data and Non-Gene Data (CDC Ref. I–024–02/0), U.S. Patent SN: 60/429,920.

Measurement of Total Reactive Isocyanate Groups in Samples Using Bifunctional Nucleophiles Such as 1,8-Diaminonapthalene (DAN) (CDC Ref. I–034–02/0), U.S. Patent SN: 60/429,963.

Dated: March 31, 2003.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–8321 Filed 4–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Diagnostics of Fungal Infections

AGENCY: Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide, limited field of use, exclusive license to practice the inventions embodied in the patent and patent applications referred to below to Transgenomic, Inc. (Transgenomic) having a place of business in Omaha, Nebraska. The patent rights in these inventions have been assigned to the government of the United States of America. The patent and patent applications to be licensed are:

Title: Rapid and Sensitive Method for Detecting *Histoplasma capsulatum.*

U.S. Patent Application Serial No.: 09/673,298.

Filing Date: 1/12/2001.

Domestic Status: Patent No.: 6,469,156.

Issue Date: 10/22/2002.

Title: Nucleic Acids for Detecting *Aspergillus* Species and Other Filamentous Fungi.

U.S. Patent Application Serial No.: 09/423,233.

Filing Date: 6/27/2000.

Domestic Status: 6,372,430.

Issue Date: 4/16/2002.

Title: Molecular Identification of *Aspergillus* Species.

U.S. Patent Application Serial No.: 60/381,463.

Filing Date: 5/17/2002.

Domestic Status: Pending.

Issue Date: N/A.

Title: Nucleic Acids for the Identification of Fungi and Methods for Using the Same.

U.S. Patent Application Serial No.: 60/325,241.

Filing Date: 9/26/2001.

Domestic Status: Pending.

Issue Date: N/A.

Title: Nucleic Acids of the M Antigen Gene of Histoplasma Capsulatum, Antigens, Vaccines, and Antibodies.

U.S. Patent Application Serial No.: 09/674,195.

Filing Date: 10/10/2000.

Domestic Status: Pending.

Issue Date: N/A.

Title: Nucleic Acids for Detecting *Fusarium* Species and Other Filamentous Fungi.

U.S. Patent Application Serial No.: 10/046,955.

Filing Date: 1/14/2002.

Domestic Status: Pending.

Issue Date: N/A.

Title: Nucleic Acid Probes for Detecting *Candida* Species.

U.S. Patent Application Serial No.: 08/903,446.

Filing Date: 7/30/1997.

Domestic Status: 6,242,178.

Issue Date: 6/5/2001.

Title: Nucleic Acid Probes for *Candida Parapsilosis* Methods for Detecting Candidiasis in Blood.

U.S. Patent Application Serial No.: 08/429,520.

Filing Date: 4/26/1995.

Domestic Status: 5,688,644.

Issue Date: 11/18/1997.

Title: Nucleic Acid Sequences and Methods for Detecting *Candida tropicalis* in Blood.

U.S. Patent Application Serial No.: 08/429,522.

Filing Date: 4/26/1995.

Domestic Status: 5,645,992.

Issue Date: 7/8/1997.

Title: Nucleic Acid Probes and Methods for Detecting *Candida krusei* Cells in Blood.

U.S. Patent Application Serial No.: 08/429,532.

Filing Date: 4/26/1995.

Domestic Status: 5,635,353.

Issue Date: 6/3/1997.

Title: Nucleic Acid Probes and Methods for Detecting *Candida glabrata* DNA in Blood.

U.S. Patent Application Serial No.: 08/429,523.

Filing Date: 4/26/1995.

Domestic Status: 5,631,132.

Issue Date: 5/20/1997.

Title: Nucleic Acid Probes and Methods for Detecting *Candida* DNA Cells in Blood.

U.S. Patent Application Serial No.: 08/065,845.

Filing Date: 5/20/1993.

Domestic Status: 5,426,027.

Issue Date: 6/20/1995.

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 404.7.

Specific DNA (oligonucleotide) probes have been developed for a wide variety of systemic disease causing fungi, including *Histoplasma capsulatum, Aspergillus* species, *Candida* species, *Fusarium* species, and others. A probe has been developed for identification of all dimorphic fungi. These probes can be used for the rapid identification of fungal pathogens and for the diagnosis of mycotic diseases.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, telephone: (770) 488–8610; facsimile: (770) 488–8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within sixty days of this notice will be considered. Comments and objections submitted in response 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. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application.

Dated: March 31, 2003.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–8322 Filed 4–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2999]

Ciba Specialty Chemicals; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9B4686) proposing that the food additive regulations be amended to provide for the safe use of benzenepropanoic acid, 3,5- bis(1,1-dimethylethyl)-4-hydroxy-, C7-C9-branched alkyl esters as an antioxidant and/or stabilizer for adhesives.

FOR FURTHER INFORMATION CONTACT: Mark Hepp, Center for Food Safety and Applied Nutrition (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3858, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 7, 1999 (64 FR 48654), FDA announced that a food additive petition (FAP 9B4686) had been filed by Ciba Specialty Chemicals, 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposed to amend the food additive regulations in § 178.2010 Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) to provide for the safe use of benzenepropanoic acid, 3,5- bis(1,1-dimethylethyl)-4-hydroxy-, C7-C9-branched alkyl esters as an antioxidant and/or stabilizer for adhesives. Ciba Specialty Chemicals has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 20, 2003.

Alan M. Rulis,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 03–8335 Filed 4–4–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[CFDA Number 93.110B]

Maternal and Child Health Federal Set-Aside Program; Special Projects of Regional and National Significance; Comprehensive Hemophilia Diagnostic and Treatment Centers; Regional Project Grant

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that $360,000 in fiscal year (FY) 2003 funds is available to fund one grant to establish a regional network of hemophilia treatment centers (HTCs) in the Maternal and Child Health Bureau Hemophilia Program, Region IV North (Kentucky, North Carolina, South Carolina, and Tennessee) to provide comprehensive care for people with hemophilia and other congenital bleeding disorders and their families in the diagnosis and treatment of hemophilia and other bleeding disorders. This grant will be awarded for a 2-year period, subject to satisfactory progress and the availability of funds.

DATES: Applications must be received in the HRSA Grant Application Center (GAC) at the address below by the close of business, May 8, 2003. Applications will meet the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legible, dated receipt from a commercial carrier or U.S. Postal Service will be accepted instead of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) and present the announcement number HRSA 03–084 and announcement code HTC or register on-line at: *http://www.mchb.hrsa.gov/grants/.* All applications should be mailed or delivered to: Grants Management Officer (MCHB), HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, Maryland, 20879, telephone: 1–877–HRSA–123 (1–877–477–2123), e-mail: *hrsagac@hrsa.gov.*

Submission Requirements

Applicants are required to submit one ink-signed hard copy original of the complete application and two hard copies. Additionally, applicants are required to submit a diskette of the abstract.

The HRSA Grants Application Center will send out confirmation of the receipt of the application. If the acknowledgment is not received within 15 days of submitting the application, applicants should contact the HRSA Grants Application Center at 1–877–477–2123 or by e-mail at *hrsagac@hrsa.gov* to determine the status of the application.

FOR FURTHER INFORMATION CONTACT: Jack Arner, 301–443–1080 (for questions specific to project activities of the program and program objectives); and Theda Duvall, 301–443–1440 (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

Hemophilia is a group of hereditary bleeding disorders of specific blood clotting factors classified as hemophilia A and B. Classic hemophilia A is the result of a deficiency of clotting factor VIII; Hemophilia B is a deficiency of clotting factor IX. Approximately 17,000 persons in the United States, primarily males, are affected by hemophilia A or B, the most well known and prevalent of the clotting factor deficiencies. The program also serves individuals with other congenital bleeding disorders including von Willebrand Disease (VWD). It is estimated that up to 4 million individuals in the United States have VWD. VWD, a hereditary bleeding disorder caused by a problem with a protein needed for blood to clot, equally affects men and women.

The National Hemophilia Program was initiated in 1975 and has been since that time funded through Special Projects of Regional and National Significance (SPRANS) under the authority contained in 42 U.S.C. 701(a)(2). Comprehensive hemophilia diagnostic and treatment services are offered through 12 regional grantees, with a network of 135 HTCs located throughout the country. In addition to comprehensive medical services for hemophilia, the HTCs offer a comprehensive array of educational genetic counseling, peer support, and HIV prevention and risk reduction services. Regional services are based upon a regional needs assessment. They include capacity building, communication and information dissemination, regional strategic planning, data collection and analyses, and the coordination of training and technical assistance to affiliated treatment centers, as needed. Services currently being provided through the MCHB Hemophila grant in Region IV—North will end on May 31, 2003 and will require a new grant starting on June 1, 2003.

Authorization

Section 501(a)(2) of the Social Security Act, the MCH Federal Set-Aside Program (42 U.S.C. 701(a)(2)).

Purpose

This grant program supports the provision of comprehensive care (diagnosis and treatment) for people with hemophilia and other congenital bleeding disorders and their families through an integrated regional network of centers for such disorders. This grant will be used to promote in the Maternal and Child Health Bureau Hemophilia Program Region IV North: (1) Comprehensive care to meet the needs including medical, psycho-social, peer support, and genetic testing and counseling of individuals with hemophilia and other congenital bleeding disorders and their families throughout their life time; (2) outreach to unserved and underserved people with congenital bleeding disorders; and (3) collaboration with HTCs within the defined area and promotion of family-centered care within the client population.

The grant also supports the provision of regional coordination and administration including regional services for planning, service coordination and allocation of funds for comprehensive care to ensure those persons with hemophilia and other congenital bleeding disorders and their families have access to high quality care. Regional services should be based upon a regional needs assessment and should include capacity building, communication and information dissemination, regional strategic planning, data collection and analyses, and the coordination of training and technical assistance to affiliated treatment centers, as needed.

Eligibility

Under SPRANS project grant regulations at 42 CFR 51a.3, any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for funding covered by this announcement. Faith-based and community-based organizations are eligible to apply for these funds. Preference for funding will be given to applicants having a geographical location within MCHB Hemophilia Region IV-North. Applicants having a geographical location outside of MCHB Hemophilia Region IV-North will receive consideration only if there is no acceptable application received from within MCHB Hemophilia Region IV-North.

Funding Level/Project Period

$360,000 in FY 2003 is available to support the award of one grant with a project period of up to two years. Funding beyond FY 2003 is contingent upon satisfactory performance and the availability of funds.

The applicant will not be required to match or share in project costs if an award is made.

Review Criteria

Applications that are complete and responsive to the guidance will be evaluated by an objective review panel specifically convened for this solicitation and in accordance with applicable policies and procedures. In general, applications for this grant program will be reviewed using the following criteria listed in descending order of priority:

The extent to which the project will contribute to improvement of the health of persons with hemophilia and other congenital bleeding disorders, including the extent to which the project will accomplish a number of specific priorities (described in the project guidance) which are consistent with regulatory review criteria generally applicable to all Title V programs (at 42 CFR 51a.5) and are relevant to the specific project (65 points). This should incorporate the following components:

- Access to comprehensive care for individuals diagnosed with hemophilia and hemophilia/HIV and other congenital bleeding disorders as described in the *Current Standards and Criteria for the Care of Persons with Congenital Bleeding Disorders* as published by the National Hemophilia Foundation (NHF) which will be made available in the program guidance (25 points);
- Outreach to those not being served by Federally-funded hemophilia treatment centers (15 points);
- Emphasis on prevention to reduce complications and morbidity associated with hemophilia (5 points);
- Linkage of hemophilia treatment centers with primary care providers for children and adults served by the hemophilia treatment centers (5 points);
- Collaboration and coordination of services with State Title V Maternal and Child Health Programs; Ryan White

Titles I, II, and III, HIV community-based organizations; State and local health agencies; Ryan White Title IV HIV comprehensive family-centered care projects, prevention, education and peer support activities; national and local consumer organizations, including the National Hemophilia Foundation and its Chapters (5 points);

• Evidence of formal patient choice and grievance policies and procedures (5 points);

• Participation in other significant activities, and a description of any involvement with factor replacement product programs (5 points).

• The extent to which (A) the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel; and (B) there is a plan for management of the regional network of hemophilia diagnostic and treatment centers (15 points). In addressing this criterion please describe the following items:

• Regional program management;

• Fostering communication among and providing technical assistance and training to HTCs;

• Other significant regional activities;

• The extent to which the estimated cost to the government of the project is reasonable, considering the anticipated results (10 points).

• The strength of the project's plan for evaluation (10 points).

Additional criteria may be used to review and rank applications for this competition. Any such criteria will be identified in the program guidance included in the application kit. Applicants should pay strict attention to addressing these criteria, in addition to those referenced above. Also, to the extent that regulatory review criteria generally applicable to all Title V programs (at 42 CFR part 51a.5) are relevant to this specific project, such factors will be taken into account.

Paperwork Reduction Act

OMB approval for any data collection in connection with this grant will be sought, as required under the Paperwork Reduction Act of 1995.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based non-governmental organizations within their jurisdictions. The project abstract may be used in lieu of the one-page PHSIS.

Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The MCH Federal Set-Aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

Dated: March 31, 2003.

Dennis P. Williams,

Deputy Administrator.

[FR Doc. 03–8336 Filed 4–4–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Practitioner Services Network Initiative—New—SAMHSA's Center for Substance Abuse Treatment (CSAT), plans to obtain information about the providers, care and characteristics of clients with substance abuse disorders and related co-morbidities that receive treatment from practitioners in private practice and organizational settings. This information is needed to complement available information about the substance abuse treatment provided in institutional and publicly funded settings, in order to more completely describe the full range and nature of substance abuse problems affecting the nation.

The CSAT Practitioner Services Network initiative provides support to six of the largest behavioral health associations in the nation to design and implement surveys using representative samples of their members and the clients they serve. The membership of the selected Associations collectively represent a significant proportion of the behavioral health professionals in the country. Two of these associations, the American Psychiatric Association and the American Psychological Association, have separately functioning internet-based PSN infrastructures; from these two groups CSAT will be able to purchase reports based on the data they have already collected.

For four other associations (*i.e.,* the American Association for Marriage and Family Therapy; the American Counseling Association; NAADAC, The Association for Addiction Professionals; and the National Association of Social Workers), CSAT will sponsor new data collection efforts to provide a core set of data elements to be collected in their upcoming membership surveys. The four Associations conduct periodic sample surveys of their memberships through their individual Practitioner Services Network infrastructures and will incorporate a common set of specific substance-abuse questions that are of importance to CSAT into these studies. CSAT will sponsor data collection and purchase, from each Association, a report that addresses the characteristics of practitioners who may be expected to encounter clients with substance abuse disorders, the characteristics of clients with behavioral

and/or substance abuse disorders, and the nature of services rendered to these clients.

The reports to be purchased by CSAT will be based on the Associations' surveys of a representative sample of 400 of their members. Practitioners in the sample will abstract demographic and encounter-specific data from two of their current patients' records. No client identifying information will be collected as part of this study. Data collection methods will include mailed surveys with mailed reminders and follow-up phone calls in order to achieve a target response rate of 80 percent.

This information will complement CSAT's and SAMHSA's existing data collection efforts and provide a more comprehensive view of the populations in need of services, the prevalence of substance abuse and mental health co-morbidities, and the qualifications and training of private practitioners who serve these clients.

The burden estimates are summarized in the following table.

Estimated number of respondents	Responses per respondent	Estimated completion time (hours)	Total burden hours
1,600	1	.33	532

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 1, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–8323 Filed 4–4–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

National Outcomes Performance Assessment of the Collaborative Initiative to Help End Chronic Homelessness—New—This Initiative is coordinated by the U.S. Interagency Council on the Homeless and involves the participation of three Council members: the Department of Housing and Urban Development (HUD), the Department of Health and Human Services (HHS), and the Department of Veterans Affairs (VA). Within HHS, SAMHSA's Center for Mental Health Services is the lead agency.

This project will monitor the implementation and effectiveness of the Initiative. A national assessment of client outcomes is needed to assure a high level of accountability and to identify which models work best for which people, using the same methods for all sites. To this end, this project will provide a site-by-site description of program implementation, as well as descriptive information on clients served; services received; housing quality, stability, and satisfaction; and, client outcomes in health and functional domains. The VA Northeast Program Evaluation Center (NEPEC), based at the VA Connecticut Healthcare System in West Haven, Connecticut, will be responsible for conducting this project.

Data collection will be conducted over a 36-month period. At each site, a series of measures will be used to assess (1) program implementation (*e.g.*, number and types of housing units produced and intensity and types of treatment and supportive services provided), (2) client descriptive information (*e.g.*, demographic and clinical characteristics, and housing and treatment services received) and, (3) client outcomes.

Client outcomes will be measured using a series of structured instruments administered by evaluation personnel employed and funded by the local VA medical center or outpatient clinic involved at each Initiative site who will work closely with central NEPEC staff. Assessments will be conducted through face-to-face interviews and, when needed, telephone interviews. Interviews (approximately one hour in length) will be conducted at baseline, defined as the date of entry into the clinical treatment program leading to placement into permanent housing, and quarterly (every 3 months) thereafter for up to three years. Discharge data will be collected from program staff at the time of official discharge from the program, or when the client has not had any clinical contact from members of the program staff for at least 6 months. In addition to client interviews, key informant interviews with up to 15 program managers at each site will be conducted annually.

At most Initiative sites, it is expected that more people will be screened and/or evaluated for participation in the program than receive the full range of core housing and treatment services. We have conceptualized entry into the Initiative as a two-phase process involving an Outreach/Screening/Assessment Phase (Phase I), and an Active Housing Placement/Treatment Phase (Phase II) that is expected to lead to exit from homelessness. In some programs these two phases may be described as the Outreach and Case Management Phases. It will be important to have at least some minimal information on all clients so as to be able to compare those who enter Housing/Treatment with those who do not.

Client-level data at the time of first contact with the program (*i.e.*, before the client receives more intensive treatment or housing services) will be collected using a screener form. The screener form will be completed by the Evaluation assistant or member of the clinical staff when prospective clients are first told about the program, and express interest in participating in the program (*i.e.*, when they enter Phase I). The purpose of this form is to identify the sampling frame of the evaluation at

each site, or the pool of potential clients from which clients are then selected. Program implementation will be measured using a series of progress summaries.

Initiative sites will be responsible for screening potential participants, assessing homeless and disabling condition eligibility criteria for the program, and documenting eligibility as part of the national performance assessment. Each site will identify a limited number of portals of entry into the program in a relatively small geographic area, so that the evaluator can practically and systematically contact clients about participating in the evaluation. VA evaluation staff, clinical program staff, and NEPEC will work together to establish systematic procedures for assessing eligibility, enrolling clients into the Housing/Treatment Activity of the Initiative, obtaining written informed consent to participate in the national performance assessment, and other evaluation activities.

The estimated response burden to collect this information is as follows:

Instrument	No. of respondents	Responses/ respondent	Burden/ response (hrs)	Total burden (hrs)
Client screener (completed by program staff)	10	300	0.083	249
Client baseline interview	1,200	1	1.00	1,200
Client followup interviews	1,200	11	0.67	8,844
Client discharge form (completed by program staff)	10	120	0.083	100
Key informant interviews with site program managers	108	3	1.00	324
Total	1,318			10,717
3-Year annual average	1,318			3,572

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 1, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–8324 Filed 4–4–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG 2003–14134]

Port Pelican LLC Deepwater Port License Application; Preparation of Environmental Impact Statement

AGENCY: Coast Guard, DHS, and Maritime Administration, DOT.

ACTION: Notice of intent and request for public comments.

SUMMARY: The U.S. Coast Guard and the Maritime Administration (MARAD) announce their intent to prepare an environmental impact statement (EIS) for the project described in the Port Pelican LLC Deepwater Port License Application. The plan description in the license application calls for construction of a liquefied natural gas (LNG) Deepwater Port known as ''Port Pelican'' and associated anchorage in the Gulf of Mexico, approximately 36 miles south southwest of Fresh Water City, Louisiana, located in Outer Continental Shelf (OCS) Block Vermillion 140. Port Pelican would deliver natural gas to the U.S. Gulf Coast using existing gas supply and gathering systems in the Gulf of Mexico and southern Louisiana. Gas would then be delivered to shippers using the national pipeline grid though interconnections with major interstate and intrastate pipelines. The Coast Guard seeks public and agency input on the scope of the EIS. Specifically, the Coast Guard requests input on any environmental concerns that the public may have related to the proposal to construct a new Deepwater Port, sources of relevant data or information, and any suggested analysis methods for inclusion in the EIS.

DATES: Comments and related material must reach the Docket on or before May 7, 2003.

ADDRESSES: Comments may be submitted in several ways. To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2003–14134), U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to Room PL–401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(3) By fax to the Docket Management Facility at (202) 493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying in Room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays. You may also view this docket, including this notice and comments, on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions about the project, you may contact Commander Mark Prescott, U.S. Coast Guard at (202) 267–0225 or *mprescott@comdt.uscg.mil.* For questions on viewing or submitting materials to the docket, contact Dorothy Beard, Chief, Dockets, DOT, at (202) 366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related materials on this notice. Persons submitting comments should include their names and addresses, this notice reference number (USCG–2003–14134), and the reasons for each comment. You may submit your comments and materials by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address given under **ADDRESSES.** If you choose to submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, and suitable for copying and

electronic filing. If you submit them by mail and would like to know if they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and materials received during the comment period. (For additional information about this notice or the EIS, contact Commander Mark Prescott, U.S. Coast Guard at (202) 267–0225 or *mprescott@comdt.uscg.mil*.)

Background Information

The Deepwater Port Act of 1974, as amended (the Act, 33 U.S.C. 1501 *et seq*.), defines a deepwater port as any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State. The Act provides that an applicant must submit detailed plans for a proposed facility to the Secretary of Transportation, along with its license application. The Secretary has delegated the processing of deepwater port applications to the Coast Guard and the Maritime Administration (MARAD). The Act provides ''For all applications, the Secretary, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332).'' This notice is intended to meet the requirements of NEPA and to provide general information about the procedure that will be followed in complying with NEPA.

Proposed Action

The Coast Guard intends to prepare an EIS consistent to the maximum extent practicable with the Deepwater Port Act of 1974, as amended (the Act, 33 U.S.C. 1501 *et seq*.), NEPA (Section 102(2)(c), as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508)), Department of Transportation (DOT) Order 5610.1C (Procedures for Considering Environmental Impacts), and Coast Guard Policy (Commandant's Instruction (COMDTINST) M16475.1D). The Coast Guard anticipates having one or more cooperating agencies in this endeavor.

NEPA requires Federal agencies to consider environmental impacts that may result from a proposed action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. The EIS describes in detail the nature and extent of the environmental impacts of the Proposed Action and each alternative and discusses appropriate mitigation measures for any adverse impacts. An EIS includes, among other matters, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impacts of the Proposed Action and alternatives.

The Port Pelican EIS will assess the impacts of the alternatives, including approving or not approving (No Action Alternative) the license application to construct and operate Port Pelican, on the natural and human environment. The application addresses the Port Pelican Terminal (the Terminal), an LNG receiving, storage and regasification facility, and the Pelican Interconnector Pipeline (PIPL) to transport the gas to the existing offshore gas gathering and transmission system. Port Pelican would consist of two concrete gravity based structure (GBS) units fixed to the seabed, which would include integral LNG storage tanks, support deck mounted LNG receiving and vaporization equipment and utilities, berthing accommodations for LNG carriers, facilities for delivery of natural gas to a pipeline transportation system, and personnel accommodations. The Terminal would be able to receive the largest LNG carriers currently in service or under contract for construction. All marine systems, communication, navigation aids and equipment necessary to conduct safe LNG carrier operations and receiving of product would be provided at the port.

The Terminal would be constructed in two phases. Phase I includes the installation of the two GBS units with internal storage tanks and facilities for LNG offloading, and vaporization capability to deliver a peak 1.0 billion standard cubic feet per day (SCFD) of natural gas to the pipeline system. Additional vaporization equipment and associated support equipment and facilities would be installed during Phase II to increase the peak facility vaporization and send out rate to 2.0 billion SCFD.

As required by NEPA, the Coast Guard also will analyze the No Action Alternative as a baseline for comparing the impacts of the proposed project. For the purposes of this project, the No Action Alternative is defined as not approving the Port Pelican LLC Deepwater Port License Application. The Coast Guard encourages public participation in the EIS process. The scoping period will begin upon publication of this notice in the **Federal Register** and continue for a period of 30 days. A scoping meeting may be held. If one is held, the date and location of the meeting will be announced separately in the **Federal Register**. Multiple methods for providing comments are available, including mail, Internet and fax.

Following the scoping process, the Coast Guard will prepare a draft EIS. A Notice of Availability will be published in the **Federal Register** when the draft EIS is available. Public notices will be mailed or emailed to those who have requested a copy of the draft EIS. The public will be provided an opportunity to review the draft EIS and to offer appropriate comments.

Comments received during the draft EIS review period will be available in the public docket and made available in the final EIS. A Notice of Availability of the final EIS will also be published in the **Federal Register**.

Dated: March 31, 2003.

Howard L. Hime,

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

Margaret D. Blum,

Associate Administrator, Port, Intermodal, and Environmental Activities, U.S. Maritime Administration.

[FR Doc. 03–8450 Filed 4–3–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4817–N–05]

Notice of Proposed Information Collection for Public Comment—PHA-Owned or Leased Projects, Maintenance and Operation—Resident Allowance for Utilities Documentation

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 6, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing,

Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: PHA-Owned or Leased Projects, Maintenance and Operation—Resident Allowance for Utilities Documentation.

OMB Control Number: 2577–0062.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) provide their residents with reasonable amounts of utilities a part of Family Gross rents. These amounts are called Tenant Allowance for utilities. HUD regulations provide criteria which PHAs are to use to determine utility allowances. In order for PHAs to prove that their allowances reflect reasonable amounts of utilities, there is a need for documentation on how it is determined.

Agency form numbers, if applicable: None.

Members of affected public: State or Local Government.

Estimation of the total number of hours needed to pare the information collection including number of respondents, frequency of response, and hours of response: 3400 respondents, one-time documentation, 1.9 hour average per documentation, 6,236 total recordkeeping burden.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 31, 2003.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 03–8277 Filed 4–4–03; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4817–N–06]

Notice of Proposed Information Collection for Public Comment—Contract for Inspection Services—Turnkey

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 6, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Contract for Inspection Services—Turnkey.

OMB Control Number: 2577–0007.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) use the Contract of Inspection Services—Turnkey to obtain the professional services of an architect or engineer to assist in the administration of a construction contract and to inspect the installation of the work. The information contained in the contract is used by the PHA and the architect/engineer for the following purposes: To define the legal obligations of both parties; to establish the specific work and its locations; to set forth the services which the architect/engineer must provide; to establish the fee to be paid for the work; to establish reporting requirements. The requirements are similar to contracts generally used in the construction industry.

Agency form numbers, if applicable: HUD–5084.

Members of affected public: State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Respondents are identified as projects. 135 projects × one contract per project annually, 1.5 hour average per contract, 200 total annual burden hours for reporting; 135 projects × .25 hours per projects for recordkeeping, 51 total annual burden hours for recordkeeping; total burden hours are 251.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 31, 2003.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–P

Contract for Inspection Services

(Turnkey)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0007 (exp.8/31/95)

This Agreement entered into as of the _____ day of _____ by and between the _____

_____ a public body organized and existing under and by virtue of the laws of the

State of _____ (hereinafter called the Local Authority or LA), and _____ Architects,

of _____ (hereinafter called the Architect):

Witnessed that:

Whereas, the LA is undertaking the acquisition of a low-rent housing project designated as Project No. _____

located at _____ in _____; and

Whereas, the United States of America, acting through the Department of Housing and Urban Development (hereinafter called the Government) has agreed to assist in the financing of the acquisition of this project under the provisions of the United States Housing Act of 1937; and

Whereas, under date of _____ the LA entered into a certain agreement (hereinafter called the Contract of Sale) with _____ (In the Contract of Sale and hereinafter in this Agreement called the Seller) in which the LA has agreed to purchase certain real estate after completion thereon by the Seller of certain improvements to be constructed in accordance with plans and specifications as set forth in the Contract of Sale (which said Contract of Sale is made a part hereof as if set forth herein in full), said improvements to consist of _____ buildings containing _____ dwelling units, together with utilities, site improvements, landscaping, and related facilities; and

Whereas, the LA desires to obtain from the Architect professional services with reference to the LA's interest in the Contract of Sale;

Now, Therefore, the LA and the Architect do mutually agree as follows:

Article 1. Scope. The Architect agrees to provide professional services for the LA in connection with the project as set forth in Article 3 hereof.

Article 2. Fee. For the professional services rendered as defined in Article 3 hereof, the La agrees to pay the Architect a fee determined at the rate of two and one-half times the direct personnel expense as approved by the La.

Direct personnel expense includes actual and reasonable salaries paid to the Architect, his collaborators and his technical personnel for performing the services stipulated under this contract, at rates of pay consistent with the nature of the services performed, but which shall not exceed $_____ per hour. Direct personnel expense does not include stenographic, clerical, or other expense of an overhead nature required for performance of this contract and for which compensation is included in the fee stipulated herein. It is agreed that, regardless of the actual timing of services, calculation of the maximum remuneration to the Architect shall be based on the assumption that professional services will average _____ hours per week during the actual construction period. The total compensation to the Architect shall not exceed $_____.

Payments to the Architect on account of services hereunder shall be made at the end of each month when the Architect shall submit a bill setting forth an itemization of direct personnel expense involved.

Article 3. Professional Services. The Architect shall:

3.1 Perform all services required of the Architect as set forth in the Contract of Sale.

3.2 Furnish the LA at the time of executing this Agreement a written list of those who may collaborate in inspecting the work. The Architect will be responsible for compensating such collaborators.

3.3 In cooperation with the La, prepare an inspection schedule appropriate to the construction and anticipated progress, but in no case less often than monthly.

3.4 Make on-site inspections according to the schedule to determine conformity with plans and specifications, without in any way guaranteeing the Seller's work or assuming responsibility for the project design.

3.5 Within five days of each inspection, provide the LA a written report on such inspection including all deficiencies observed in the work and send copies of each such report to the Seller, to the Lender, and to the Housing Assistance Office.

3.6 Check (without verifying by physical measurement or instrument survey) lines and grades of foundations, surfaces, grassed areas and underground utilities laid out by the Seller.

3.7 Advise the LA on special problems and any changes in the work. Prepare and countersign construction change orders involving a change in contract price and/or extension of contract time for execution by the LA and the Seller. Changes not affecting contract price or time of completion shall be documented, singly or in groups, for formal acceptance by the LA and the Seller and countersigning by the Architect. Changes affecting the contract price (see Article IV, Contract of Sale) shall be carefully checked as to monetary value and the countersignature thereon shall indicate that the credit or extra has been verified by the Architect and that the amount involved represents a reasonable adjustment of the contract price.

3.8 Approve materials and color schemes, and recommend La approval or disapproval of samples, certificates, and test reports when provided for in the Contract of Sale.

3.9 Maintain a file of shop drawings, guarantees and warranties relating to the improvement; review and approve "as-built" drawings and specifications; and transfer this material to the LA at completion of construction.

3.10 Attend conferences when and as deemed necessary by the LA.

3.11 Assist in final inspection and prepare list of incomplete or defective work and, if necessary, prepare the documents and recommend monetization of any such work.

3.12 Certify at the time of settlement that the property involved complies in all respects to the plans and specifications and any amendments thereto, and is in good and tenantable condition.

3.13 Certify as to full completion of the project for payment of amounts withheld at the time of settlement.

3.14 Inspect the project after final acceptance and occupancy and before expiration of any applicable guarantees or warranties, if requested to do so by the LA.

Article 4. Miscellaneous Requirements

4.1 Prevailing Wages. The Architect and his/her agents shall pay or cause to be paid to all Architects, technical engineers, draftsmen, and technicians employed on any part of the work under this contract not less than the salaries or wages prevailing in the locality, as determined or adopted(subsequent to a determination under applicable State or local law) by HUD. The Architect shall furnish to the LA, with each statement submitted for services rendered, certification as to such compliance. These requirements shall not apply to executive, supervisory, and administrative employees.

4.2 Withholding of Wages. In cases (of which the LA has notice) of underpayment of wages required to be paid under the requirement above, the LA may withhold from the Architect out of payments due, an amount sufficient to pay to the employees involved the difference between the wages required to be paid under the contract and the wages actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the LA for and on account of the Architect to the respective employees to whom they are due.

4.3 Equal Employment Opportunity. During the performance of this Agreement, the Architect agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, or national origin. The Architect will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Architect shall insert provisions similar to the foregoing in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

4.4 Officials Not to Benefit. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement, or to ant benefit that may arise therefrom.

4.5 Interest of Members of the LA and the Local Governing Body. No member, officer, or employee of the LA, no member of the governing body of the locality in which the LA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, shall, during his/her tenure, or for one year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof.

4.6 Covenant Against Contingent Fees. The Architect warrants that he/she has not employed any person to solicit or secure this Agreement upon an agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the LA the right to terminate this Agreement or, in its discretion, to deduct from the compensation otherwise payable, the amount of such commission, percentage, brokerage, or contingent fee.

4.7 Assignability. The Architect shall not assign or transfer any interest in this Agreement except that claims for monies due or to become due him/her from the LA under the Agreement may be assigned to a bank, trust company, or other financial institution.

4.8 Termination. The LA reserves the right to terminate the services of the Architect by giving at least three days written notice of the fact and time of such termination. In such event, all finished or unfinished work prepared by the Architect shall become the property of the LA, and the Architect shall be entitled to compensation for satisfactory work under this Agreement on the basis stated in Article 2.

In Witness Whereof, the LA and the Architect have executed this Agreement as of the day and year first above written.

By _____

BY _____

Title _____

Architect's Business Address and Zip Code _____

_____

Architect's Business Telephone _____

Architect's Home Telephone _____

Previous editions are obsolete

form **HUD-5084** (12/91)
ref. Handbook 7440.1

[FR Doc. 03–8278 Filed 4–4–03; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–16]

Notice of Submission of Proposed Information Collection to OMB: Public Housing Reform; Change in Admission and Occupancy Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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:* May 7, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0230) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of proposal: Public Housing Reform; Change in Admission and Occupancy Requirements.

OMB Approval number: 2577–0230.

Form numbers: None.

Description of the need for the information and its proposed use: Public Housing Agencies will provide information required by statute for verification of earned income by minors, welfare rent reduction, over-income for small PHAs and the Community Services and Economic Self-Sufficiency Program as part of the admission and occupancy requirements authorized by the Quality Housing and Work Responsibility Act of 1998.

Respondents: Individuals or households, State, Local or Tribal Government.

Frequency of submission: On occasion, Per applicant.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3400		1		22		74,800

Total estimated burden hours: 74,800.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 28, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–8279 Filed 4–4–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–17]

Notice of Submission of Proposed Information Collection to OMB: Report on Occupancy for Public and Indian Housing

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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:* May 7, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0028) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9)

whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of proposal: Report on Occupancy for Public and Indian Housing.

OMB Approval number: 2577–0028

Form numbers: HUD–51234

Description of the need for the information and its proposed use: The information to be collected provides occupancy information to monitor units vacant, demolished, boarded-up, under repair/modernization rehabilitation, or converted to a non-dwelling status. These unoccupied units represent a serious waste of program resources that could be averted by HUD attention and intervention. The information is used to prepare input to reports on Presidential and Congressional needs.

Respondents: Individuals or households, State, Local, or Tribal Government.

Frequency of submission: Annually

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	3,400		3,400		1		3,400

Total estimated burden hours: 3,400.

Status: Reinstatement, without change, of previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 28, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–8280 Filed 4–4–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–12]

Mortgagee Review Board Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, this notice advises the public of the cause and description of certain administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees. This notice of administrative actions relates solely to the failure of title I lenders and title II mortgagees to submit the required audited annual financial statement, an acceptable annual audited financial statement and/or payment of the annual recertification fee.

FOR FURTHER INFORMATION CONTACT: Phillip A. Murray, Director, Office of Lender Activities and Program Compliance, Room B–133–3214 L'Enfant Plaza, 451 Seventh Street, SW., Washington, DC 20410, telephone: (202) 708–1515. (This is not a toll-free number.) A Telecommunications Device for Hearing- and Speech-Impaired Individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235, approved December 15, 1989), requires that HUD publish a description of and the cause for administrative actions against a HUD-approved mortgagee by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), this notice advises the public of administrative actions that have been taken by the Mortgagee Review Board from April 1, 2002, through September 30, 2002, related to the failure of title I lenders and title II mortgagees to submit the required audited annual financial statement, an acceptable annual audited financial statement and/or payment of the annual recertification fee.

Action: Withdrawal of HUD/FHA title I lender approval and title II mortgagee approval.

Cause: Failure to submit to the Department the required annual audited financial statement, an acceptable annual audited financial statement, and/or remit the required annual recertification fee.

Name	City	State
251 Title 1 Lenders and Loan Correspondents Terminated Between April 1, 2002, and September 30, 2002		
A MIRACLE MORTGAGE INC	PORTLAND	OR
ABERDEEN FEDERAL CREDIT UNION	ABERDEEN	SD
ACADEMY BANK	LEBANON	TN
ACE MORTGAGE LLC	SALT LAKE CITY	UT
AFFILIATED BANC CORP	SCHAUMBURG	IL
AFFORDABLE HOME LOANS INC	SAN BERNARDINO	CA
ALL KERN FINANCIAL CORPORATION	BAKERSFIELD	CA
AMERICAN BANK LAKE CITY	LAKE CITY	MN
AMERICAN HOME ACCEPTANCE CORP	SAN FRANCISCO	CA
AMERICAN MORTGAGE EXPRESS CORP	CHERRY HILL	NJ
AMERICAN SOUTHWEST MORTGAGE CORPORATION	OKLAHOMA CITY	OK
AMIR MORTGAGE CORPORATION	IRVINE	CA
APPROVED HOME MORTGAGE CORP	PEMBROKE PINES	FL
ARBOR MORTGAGE INC	HILLSBORO	OR
ASSOCIATED BANK LAKESHORE NA	MANITOWOC	WI
BANK OF DYER	HUMBOLDT	TN
BANK OF RALEIGH	BECKLEY	WV
BANK OF SIERRA BLANCA	SIERRA BLANCA	TX
BANK OF ST CHARLES COUNTY	WELDON SPRING	MO

Name	City	State
BANK STAR ONE	FULTON	MO
BANKERS FINANCIAL GROUP INC	GREENBELT	MD
BANKNET MORTGAGE CORPORATION	MIAMI	FL
BAYSIDE FIRST MORTGAGE COMPANY	SANTA ANA	CA
BELL FEDERAL S + L OF BELLEVUE	PITTSBURGH	PA
BENEFIT FUNDING CORPORATION	BELTSVILLE	MD
BERMOR CORPORATION	LOS ANGELES	CA
BEST MORTGAGE FINDERS INC	TUCSON	AZ
BJD MORTGAGE CO	JACKSONVILLE	FL
BONDCORP REALTY SERVICES INC	NEWPORT BEACH	CA
CALDWELL NATIONAL BANK	CALDWELL	TX
CAMINO REAL FINANCIAL INC	WHITTIER	CA
CAPITAL PACIFIC MORTGAGE	NEWPORT BEACH	CA
CDW FINANCIAL CORP	LOS ANGELES	CA
CENTRAL APPALACHIAN PEOPLES FED CU	BEREA	KY
CENTURY MORTGAGE CORP	CORONA	CA
CHATEAU MORTGAGE CORPORATION	SAN DIEGO	CA
CHEMICAL BANK SOUTH	MARSHALL	MI
CHINO FEDERAL CREDIT UNION	BAYARD	NM
CITIZENS FIRST MORTGAGE CORPORATION	ENGLEWOOD	OH
CITY NATIONAL BANK	CLOQUET	MN
CITY NATIONAL BANK	FORT SMITH	AR
CMG MORTGAGE INC	SAN RAMON	CA
CNH FUNDING INC	LAS VEGAS	NV
COBB HOUSING INC	MARIETTA	GA
COLONIAL HOME EQUITIES INC	MELVILLE	NY
COLUMBIA FEDERAL SAV AND LN	FT MITCHELL	KY
COMERICA BANK	DETROIT	MI
COMMERCE BANK PA	DEVON	PA
COMMUNITY BANK DESOTO COUNTY	SOUTHAVEN	MS
COMPASS BANK ALABAMA	BIRMINGHAM	AL
COMUNITY LENDING INC	SAN JOSE	CA
CONSUMER FAIR LENDING INC	RESEDA	CA
CO-OP CREDIT UNION	BLACK RIVER FALLS	WI
COUNTRYSIDE LENDING OF TEXAS LC	HEBER CITY	UT
CROSSMARK MORTGAGE CORPORATION	COVINA	CA
CS FINANCIAL INC	LOS ANGELES	CA
CYBERLOANOFFICER–COM INC	CHICAGO	IL
D JORDAN BERMAN MORTGAGE CORP	MIAMI	FL
DAVIDSON FINANCIAL INC	COLORADO SPRINGS	CO
DEAN ENTERPRISES INCORPORATED	LA CANADA	CA
DELTA CASUALTY COMPANY	CHICAGO	IL
DONN STEIER INC	MAMMOTH LAKES	CA
EIDON FINANCIAL INC	SAN DIEGO	CA
EMA FINANCIAL INC	ONTARIO	CA
ENTERPRISE MORTGAGE CORP	LANSING	MI
EQUITY DIRECT MORTGAGE CO	LAGUNA HILLS	CA
EQUITY UNLIMITED COMPANY	ATLANTA	GA
EXECUTIVE CAPITAL GROUP INC	UPLAND	CA
EZ FUNDING CORPORATION	LOS ANGELES	CA
F AND M BANK—BRODHEAD	BRODHEAD	WI
FARMERS AND MERCHANTS	STANLEY	WI
FARMERS AND MERCHANTS STATE BK	WAYNE	NE
FARMERS TRUST AND SAVINGS BANK	BUFFALO CENTER	IA
FAST TRAC MORTGAGE LLC	ENGLEWOOD	CO
FINANCIAL AND REAL ESTATE INC	CYPRESS	CA
FINANCIAL CONSULTANTS OF AMERICA INC	STUDIO CITY	CA
FIRST AMERICAN NATIONAL FINANCIAL GROUP	RANCHO CUCAMONGA	CA
FIRST FEDERAL SAVING BANK	ZANESVILLE	OH
FIRST FOUNDATION MORTGAGE INC	TORRANCE	CA
FIRST GREENSBORO HOME EQUITY INC	GREENSBORO	NC
FIRST MORTGAGE SOLUTION INC	ORLANDO	FL
FIRST NATIONAL BANK	BALDWIN	WI
FIRST NATIONAL BANK	BOVEY	MN
FIRST NATIONAL BANK	DEEP RIVER	MN
FIRST NATIONAL BANK	LIMON	CO
FIRST NATIONAL BANK AND TRUST	FORT WALTON BEACH	FL
FIRST NATIONAL BANK JOLIET	JOLIET	IL
FIRST OF AMERICA BANK	SOUTHGATE	MI
FIRST STATE BANK	ALEXANDRIA	MN
FIRST STATE BANK	WILTON	ND
FIRST STATE BANK OF DENTON	DENTON	TX
FIRST STATE BANK OF PORTER	PORTER	IN
FIRST TRUST MORTGAGE AND FINANCE	TAMPA	FL

Name	City	State
FIRST UNION TRUST COMPANY NA	WILMINGTON	DE
FIRST VANTAGE BANK TENNESSEE	KNOXVILLE	TN
FIRST WORLD MORTGAGE CORP	FARMINGTON	CT
FLAGSHIP BANK AND TRUST	WORCESTER	MA
FORT CALHOUN STATE BK	FORT CALHOUN	NE
FORT JACKSON FEDERAL CU	FORT JACKSON	SC
FORTRESS BANK NA	HOUSTON	MN
FOUNDATION FUNDING GROUP INC	TAMPA	FL
FOUR CORNERS FINANCIAL	TUSTIN	CA
FREEL FINANCIAL SERVICES INC	TAMPA	FL
GENESIS MORTGAGE CORP	LA JOLLA	CA
GENEVA STATE BANK	GENEVA	NE
GLOBAL CREDIT UNION	SPOKANE	WA
GLOBAL MORTGAGE CO	CHICAGO	IL
GRAND CANYON STAT EMP FED C U	PHOENIX	AZ
GREAT LAKES CREDIT UNION	NORTH CHICAGO	IL
GREAT OAK MORTGAGE CORP	ATLANTA	GA
GREAT WESTERN FINAN SERV INC	PLANO	TX
GRS EMPLOYEES CREDIT UNION	ROCHESTER	NY
GULF EMPLOYEES CREDIT UNION	GROVES	TX
HIGHLAND FEDERAL BANK FSB	BURBANK	CA
HILLSIDE FINANCIAL GROUP INC	KALAMAZOO	MI
HOLLIDAY AMERICAN MORTGAGE LLC	OKLAHOMA CITY	OK
HOME CORPORATION	CITY OF INDUSTRY	CA
HOME NATIONAL BANK	SUTTON	WV
HOMEPOINT MORTGAGE INC	OGDEN	UT
INDUSTRIAL BANK	ENCINO	CA
INDYMAC INC	PASADENA	CA
INFINITY MORTGAGE CORPORATION	ATLANTA	GA
IPI SKYSCRAPER MORTGAGE CORPORATION	NEW YORK	NY
ITASCA STATE BANK	GRANDS RAPIDS	MN
J AND B EXECUTIVE INVESTMENTS ASSOC	TUSTIN	CA
JPMORGAN CHASE BANK	GARDEN CITY	NY
KELKO CREDIT UNION	SPRINGFIELD	MA
KIRKWOOD FINANCIAL CORPORATION	VICTORVILLE	CA
KIRTLAND FEDERAL CREDIT UNION	ALBUQUERQUE	NM
L AND H MANAGEMENT GROUP INC	MIAMI	FL
L M INVESTMENTS INC	TUSTIN	CA
LAKE ELMO BANK LAKE	ELMO	MN
LANDVIEW FINANCIAL INC	LOS ANGELES	CA
LASALLE BANK FSB	CHICAGO	IL
LEADERSHIP MORTGAGE SERVICES INC	ATLANTA	GA
LEDERLE EMPLOYEES FCU	PEARL RIVER	NY
LEWIS HUNT ENTERPRISES INC	SOUTHFIELD	MI
LOAN LINES INC	TARZANA	CA
LOANGUY-COM	LOS ANGELES	CA
LOANKEY FINANCIAL INC	WALNUT CREEK	CA
LOANS OF ANY NATURE INCORPORATED	FRESNO	CA
MALTA NATIONAL BANK	MALTA	OH
MARINA MORTGAGE COMPANY INC	IRVINE	CA
MARQUETTE BANK MONTANA NA	CONRAD	MT
MARQUETTE CATHOLIC CREDIT UN	MARQUETTE	MI
MAXIMUM MORTGAGE CONCEPTS	W BRIDGEWATER	MA
MC JAMES MORTGAGE CORPORATION	NEWPORT BEACH	CA
MEDFORD COOPERATIVE BANK	MEDFORD	MA
MELLON BANK NA	PITTSBURGH	PA
MEMPHIS AREA TEACHERS C U	MEMPHIS	TN
MERCHANTS NATIONAL BANK OF WINONA	WINONA	MN
METROPOLITAN BANK AND TRUST CO	CHICAGO	IL
MID-CITY NATIONAL BANK	CHICAGO	IL
MIDTOWN FINANCIAL SERVICES	ROYAL OAK	MI
MILAM FINANCIAL SERVICES LLC	HOUSTON	TX
MINER KENNEDY ASSOCIATES INC	SCOTTSDALE	AZ
MISSOULA GOVERNMENT EMP C U	MISSOULA	MT
MMI MORTGAGE CORP	HESPERIA	CA
MODIS MORTGAGE INC	LOS ANGELES	CA
MONARCH MORTGAGE	CINCINNATI	OH
M-ONE CAPITAL CORP	RANCHO CUCAMONGA	CA
MORTGAGE DEPOT INC	TAMPA	FL
MORTGAGE EDGE CORPORATION	MCLEAN	VA
MORTGAGE MANAGERS INC	LIBERTYVILLE	IL
MORTGAGE SECURITY INC EAST	FALMOUTH	MA
MORTGAGE TEAM INC RANCHO	SANTA MARGAR	CA
MORTGAGE TRUST GROUP INC	SHREWSBURY	MA

Name	City	State
MUTUAL LENDING CORPORATION	DIAMOND BAR	CA
N A D INC	BURBANK	CA
NBGI INC	LOS ANGELES	CA
NEW WEST MORTGAGAE CO	NORTH HOLLYWOOD	CA
NEW WORLD MORTGAGE COMPANY INC	ENGLEWOOD CLIFFS	NJ
NEW WORLD MORTGAGE INC	DOWNEY	CA
NORTHFIELD SAVINGS BANK	STATEN ISLAND	NY
NORTHWOODS STATE BANK	NORTHWOOD	IA
NUMERICA FUNDING INC	VIRGINIA BEACH	VA
OAKCREST FINANCIAL CORP	MISSION VIEJO	CA
OCWEN FEDERAL BANK FSB WEST	PALM BEACH	FL
OGEMA STATE BANK	OGEMA	MN
PACIFIC CAPITAL MORTGAGE INC	SCOTTSDALE	AZ
PACIFIC CHARTER MORTGAGE CORPORATION	LOS ALAMITOS	CA
PACIFIC INDEPENDANCE FINANCE	ENCINO	CA
PANHANDLE STATE BANK	SANDPOINT	ID
PAONIA STATE BANK	PAONIA	CO
PENIEL INVESTMENT CORPORATION	MONTEBELLO	CA
PEOPLES STATE BANK	HANOVER	PA
PLAZA HOME MORTGAGE INC	SAN DIEGO	CA
PORTUGUESE CONTINENTAL FEDERAL CR UN	NEWARK	NJ
PPI EQUITIES	LOS ANGELES	CA
PREMIER MORTGAGE CORPORATION	ELGIN	IL
PRIMEQWEST FINANCIAL CORP	CARLSBAD	CA
PROGRESS BANK OF MISSOURI	SULLIVAN	MO
PROMISTAR BANK	JOHNSTOWN	PA
PROVINCE BANK FSB	MARIETTA	PA
PSB RECEIVABLES IV CORP	CARLSBAD	CA
PSB RECEIVABLES V CORP	CARLSBAD	CA
PSP FINANCIAL SERVICES INC	IRVINE	CA
R J GROUP INC	LA PALMA	CA
RCFC INC	VICTORVILLE	CA
REAL MERC INVESTMENTS INC	NORTHRIDGE	CA
ROYAL FINANCE INC WEST	PALM BEACH	FL
RURAL AMERICAN BANK	BRAHAM	MN
S AND C BANK	NEW RICHMOND	WI
SARASOTA MUNICIPAL ECU	SARASOTA	FL
SECURITY FIRST NETWORK BANK	ATLANTA	GA
SIERRA REAL ESTATE SERVICE INC	FRESNO	CA
SIX RIVERS NATIONAL BANK	EUREKA	CA
SOLID FINANCIAL MORTGAGE CORP	WESTON	FL
ST ANSGAR STATE BANK	SAINT ANSGAR	IA
STATE BANK	AUSTIN	TX
STATE BANK OF DRUMMOND	DRUMMOND	WI
STATE NATIONAL BANK	CADDO MILLS	TX
STATEWIDE ACCEPTANCE CORPORATION	BIRMINGHAM	AL
STATEWIDE MORTGAGE AND INVESTMENT	PENSACOLA	FL
SUCCESS FUNDING INC	NORTHRIDGE	CA
SUNRISE VISTA MORTGAGE CORP	CITRUS HEIGHTS	CA
T M MORTGAGE CORPORATION	SPRINGFIELD	VA
TANNER FINANCIAL INC	BONITA	CA
TAYLLON MORTGAGE CORPORATION	LAS VEGAS	NV
TEXCORP MORTGAGE BANKERS INC	HOUSTON	TX
THE CAL-BAY MORTGAGE GROUP	PETALUMA	CA
THE LOAN NETWORK	SOUTH PASADENA	CA
THE MORTGAGE PLACE INC	RANCHO CUCAMONGA	CA
TITLE WEST MORTGAGE INC	WOODLAND HILLS	CA
TMI FINANCIAL INC	AUSTIN	TX
TOWNEBANK	PORTSMOUTH	VA
TWENTYFIRST FINANCIAL INC	LOS ANGELES	CA
TWIN CITIES MORTGAGE INC	LAKE FOREST	CA
U S BANK TRUST NATIONAL ASSOCIATION	SEATTLE	WA
UNICOR FUNDING INC MISSION	VIEJO	CA
UNION BANK CALIFORNIA NA	SAN DIEGO	CA
UNION MORTGAGE CORPORATION	CERRITOS	CA
UNITED COMMUNITY BANK	PERHAM	MN
UNITED FIDELITY BANK FSB	EVANSVILLE	IN
UNITED MORTGAGE FINANCE GROUP INC	HAMDEN	CT
UNIVERSITY BANK SAULT STE	MARIE	MI
UPTOWN MORTGAGE CORPORATION	WHITTIER	CA
US BANK NA	EAST GRAND FORKS	MN
US BANK TRUST NATIONAL ASSOC-CALIFORNIA	SAN FRANCISCO	CA
US LENDING CORPORATION	LONG BEACH	CA
USA MORTGAGE GROUP INC	LAFAYETTE	IN

Name	City	State
VALLEY BANK NA	ELK POINT	SD
VIKING MORTGAGE CORP	PINOLE	CA
W C FINANCIAL INC	SANTA ANA	CA
WELLS FARGO BANK TEXAS NA	SAN ANTONIO	TX
WEST COAST FUNDING MISSION	VIEJO	CA
WESTCO REAL ESTATE FINANCE CORP	COSTA MESA	CA
WESTERN FEDERAL MORTGAGE INC	BELLEVUE	WA
WHITNEY NATIONAL BANK	NEW ORLEANS	LA
WORLD WIDE MONEY CENTER INC	SAN DIEGO	CA
WORLDWIDE CAPITAL INDUSTRIES INC	RANCHO CUCAMONGA	CA
568 Title 2 Mortgagees and Loan Correspondent Mortgagees Terminated Between April 1, 2002, and September 30, 2002		
A AND E MORTGAGE CO LLC	ROSELLE	NJ
A BETTER MORTGAGE AND REAL ESTATE SERV	DOWNEY	CA
ABC AND D MORTGAGE SRVS INC	FORT MYERS	FL
ABC LENDING INC	CORAL SPRINGS	FL
ADVANCE BANK SB	LANSING	IL
ADVANCED INNOVATIVE MORTGAGES INC	FLINT	MI
ADVANTAGE MORTGAGE CORPORATION	NAPERVILLE	IL
AEROSTAR MORTGAGE CORP	PLANO	TX
ALEXANDER AND ASSOCIATES REAL ESTATE COR	LEBANON	IN
ALFAMUTUAL FIRE INSURANCE CO	MONTGOMERY	AL
ALL WORLD FINANCIAL INC	LAKEWOOD	CO
AMA FINANCIAL CORPORATION	FOREST PARK	IL
AMARIS MORTGAGE COMPANY	CHICAGO	IL
AMERI-TRUST FINANCIAL INC	NASHVILLE	TN
AMERICAN BANK OF CONNECTICUT	WATERBURY	CT
AMERICAN CAPITAL FUNDING CORP	HOUSTON	TX
AMERICAN CAPITAL MORTGAGE INC	CORDOVA	TN
AMERICAN DREAM HOME LOANS INC	TEMECULA	CA
AMERICAN EQUITY MORTGAGE INC	PORTLAND	OR
AMERICAN FEDERAL CREDIT UNION	MISSION HILLS	CA
AMERICAN FUNDING ALLIANCE CORPORATION	TEMECULA	CA
AMERICAN FUNDING CORPORATION	HAMMOND	LA
AMERICAN HOME FUNDING INC	NEWPORT BEACH	CA
AMERICAN HOMEOWNERS UNION	DULUTH	GA
AMERICAN MORTGAGE CENTER LLC	FRESNO	CA
AMERICAN MORTGAGE LINK INC	ST PETERSBURG	FL
AMERICAN REPUBLIC INS CO	DES MOINES	IA
AMERICAN TRUST MORTGAGE BROKERS	MIAMI	FL
AMERIHOME MORTGAGE CORP	TAMPA	FL
AMERILOAN INC	PHOENIX	AZ
AMIR MORTGAGE CORPORATION	IRVINE	CA
AMSTERDAM FEDERAL SAVINGS AND LOAN ASSN	AMSTERDAM	NY
AMTRUST FINANCIAL SERVICES INCORP	CARMEL	IN
ANCHOR HOME MORTGAGE MAPLES INC	MAPLES	FL
ANDROSCOGGIN SAVINGS BANK	LEWISTON	ME
ANTELOPE VALLEY BANK	LANCASTER	CA
APM CAPITAL INC	SAN DIEGO	CA
APPLE MORTGAGE CORPORATION	TUSCALOOSA	AL
APPROVED HOME MORTGAGE CORPORATION	PEMBROKE PINES	FL
APPROVED MORTGAGE FINANCING	JACKSONVILLE	FL
APPS FINANCIAL CORPORATION	ORANGE	CA
ASPEN MORTGAGE CO LLC	GREENVILLE	SC
ASSOCIATES MORTGAGE GROUP INC	LOUISVILLE	KY
ATLANTIC PACIFIC EQUITY CORP	MISSION VIEIO	CA
AUDUBON SAVINGS BANK	AUDUBON	NJ
AUTOWIN INC	TUSTIN	CA
AVALON MORTGAGE INC	DULUTH	GA
B AND D CAPITAL MORTGAGE CORP	OAKLAWN	IL
BAKELITE EMPLOYEES CREDIT UNION	SOMERSET	NJ
BANC NOTE OF AMERICA INC	INDIANAPOLIS	IN
BANK LATAH	LATAH	WA
BANK OF BENTONVILLE	BENTONVILLE	AR
BANK OF BLOOMFIELD HILLS	BLOOMFIELD HILLS	MI
BANK OF GRAVETT	GRAVETTE	AR
BANK OF MISSOURI CAPE	GIRARDEAU	MO
BANK OF THE SIERRA	PORTERVILLE	CA
BANK ONE MICHIGAN GROSS	POINT	MI
BANK PLUS INC	ALBUQUERQUE	NM
BANK TWENTY ONE	CARROLLTON	MO
BANKERS MORTGAGE CORPORATION	CHEVY CHASE	MD
BANKNET MORTGAGE CORPORATION	MIAMI	FL

Name	City	State
BARTOW COUNTY BANK	CARTERSVILLE	GA
BARWICK AND ASSOCIATES LTD	BATAVIA	OH
BEE LINE MORTGAGE CORP	FT LAUDERDALE	FL
BELGRADE STATE BANK	POTOSI	MO
BELL FEDERAL SAVINGS ALA	PITTSBURGH	PA
BEST MORTGAGE SERVICES	BELLEVUE	WA
BIG LAKE NATIONAL BANK	OKEECHOBEE	FL
BLOOMFIELD ACCEPTANCE CO LLC	BIRMINGHAM	MI
BMA FINANCIAL CORPORATION	DANVILLE	CA
BMR FINANCIAL SERVICES INC	GREENBELT	MD
BRECKINRIDGE CORP	WINCHESTER	VA
BRENTON MORTGAGES INC	DES MOINES	IA
BYZAN CORPORATION	TIMONIUM	MD
C M H MORTGAGE COMPANY	WORTHINGTON	OH
C PALMIERI ENTERPRISES INC	SAN DIEGO	CA
CAL SIERRA FUNDING INC	MARTINEZ	CA
CALUMET SECURITIES CORPORATION	PLANO	TX
CAMBRIDGE EQUITIES LLC	SHELBYVILLE	TN
CAPITAL CITY MORTGAGE CO INC	TOPEKA	KS
CAPITAL COMPANY OF AMERICA LLC	SAN FRANCISCO	CA
CAPITAL FINANCIAL ENTERPRISES INC	CHICAGO	IL
CAPITAL MORTGAGE CORP	RALEIGH	NC
CAPITAL MORTGAGE GROUP	MIAMI	FL
CAPITAL PACIFIC MORTGAGE INC	NEWPORT BEACH	CA
CARMEL MOUNTAIN MORTGAGE CORPORATION	SAN DIEGO	CA
CARRINGTON MORTGAGE CORPORATION	MIAMI	FL
CARTY MORTGAGE SERVICES	MEMPHIS	TN
CATHEDRAL MORTGAGE INC	MONTEBELLO	CA
CENIT BANK FOR SAVINGS FSB	CHESAPEAKE	VA
CENTRAL MORTGAGE BROKERAGE CORP	JACKSON HEIGHTS	NY
CENTRAL VALLEY CREDIT UNION	MODESTO	CA
CENTURA MORTGAGE GROUP INC	GRAPEVINE	TX
CENTURY MORTGAGE CORP	CORONA	CA
CHALLENGER MORTGAGE CORPORATION	HOUSTON	TX
CHANCELLOR MORTGAGE SERVICES	SEVERNA PARK	MD
CHAPEL CREEK MORTGAGE BANKER INC	MT POCONO	PA
CHARTER BANK	WYANDOTTE	MI
CHASE MANHATTAN MORTGAGE CORP-MELLON	DENVER	CO
CHATEAU MORTGAGE CORP	ATLANTA	GA
CHERVENIC FINANCIAL SERVICES LP	STOWE	OH
CHINO VALLEY MORTGAGE INC	RANCHO CUCAMONGA	CA
CHOICEONE BANK	SPARTA	MI
CITIZENS BANK AMERICUS	AMERICUS	GA
CITIZENS BANK AND TRUST GRAYSON	LEITCHFIELD	KY
CITIZENS BANK FSB	SALISBURY	NC
CITIZENS FIRST BANK	ROME	GA
CITIZENS FIRST MORTGAGE CORPORATION	ENGLEWOOD	OH
CITY EMPLOYEES CR UN W PALM BEACH INC	WEST PALM BEACH	FL
CITY NATIONAL BANK	TAYLOR	TX
CITY NATIONAL BANK FORT SMITH	FORT SMITH	AR
CITY SAVINGS BANK	PITTSFIELD	MA
CLP DOCUMENT PREPARATION INC	OAKBROOK	IL
COAST TO COAST FUNDING INC	CITY OF COMMERCE	CA
COASTAL MORTGAGE ASSOCIATES	CARLSBAD	CA
COASTAL SAVINGS BANK	PORTLAND	ME
COLONIAL HOME EQUITIES INC	MELVILLE	NY
COLONIAL TRUST CORPORATION	FORT LAUDERDALE	FL
COLONY MORTGAGE LLC	SOUTH PLAINFIELD	NJ
COLORADO COMMUNITY FIRST STATE BK-CO	DENVER	CO
COLUMBIA CREDIT UNION	VANCOUVER	WA
COMMERCE BANK AND TRUST	TOPEKA	KS
COMMUNITY BANK	BRISTOW	OK
COMMUNITY BANK AND TRUST	NEOSHO	MO
COMMUNITY BANK OF LAWNDALE	CHICAGO	IL
COMMUNITY FIRST NATIONAL BANK	LAS CRUCES	NM
COMMUNITY FIRST NATIONAL BANK	FERGUS FALLS	MN
COMMUNITY FIRST NATIONAL BANK	SPOONER	WI
COMMUNITY FIRST STATE BANK	ALLIANCE	NE
COMMUNITY GUARANTY SAVINGS BANK	PLYMOUTH	NH
COMMUNITY HOME LOAN LLC	HOUSTON	TX
COMMUNITY HOMEBANC INC	INDEPENDENCE	MO
COMMUNITY HOMEBANC OF AMERICA CORP	INDEPENDENCE	MO
COMMUNITY SECURITY BANK	NEW PRAGUE	MN
COMPLETE MORTGAGE COMPANY LLC	SHREVEPORT	LA

Name	City	State
COMSTOCK BANK	RENO	NV
CONCEPT ONE MORTGAGE CORP	SOUTHFIELD	MI
CONGRESSIONAL MORTGAGE CORPORATION INC	BIRMINGHAM	AL
CONSOLIDATED BANK AND TRUST CO	RICHMOND	VA
CONSORCIO LENDING INC	BREA	CA
CONSTRUCTION WRKS PEN TR FED	MERRILLVILLE	IN
CONSUMER FAIR LENDING INC	RESEDA	CA
CONTINENTAL MORTGAGE CORP	SAN JUAN	PR
CONTINENTAL MORTGAGE CORP OF ILLINOIS	MT PROSPECT	IL
CONTINENTAL MORTGAGE INC	ST GEORGE	UT
COOPERATIVA AHORRO Y CREDITO DE MAUNABO	MAUNABO	PR
CORNERSTONE BANK AND TRUST NA	ALTON	IL
CORNERSTONE MORTGAGE CORP	DULUTH	GA
COUNTRY LIFE INSURANCE CO	BLOOMINGTON	IL
COUNTRYSIDE HOME LOANS INC	PORTERVILLE	CA
COUNTY FUNDING CORP	SANTA ANA	CA
CPT FINANCIAL CORP	VACAVILLE	CA
CREDIT WORKS INC	BROOKFIELD	CT
CRESCENT BANK AND TRUST	NEW ORLEANS	LA
CRESTAR BANK	RICHMOND	VA
CROSSMARK MORTGAGE CORP	COVINA	CA
CROW PASS INVESTMENTS LLC	ANCHORAGE	AK
CRYSTAL LAKE BANK AND TRUST COMPANY NA	CRYSTAL LAKE	IL
CS FINANCIAL INC	LOS ANGELES	CA
DACOTAH BANK	CLARK	SD
DAMLA CORPORATION	ATLANTA	GA
DAWKINS AND ASSOCIATES INC	CHARLOTTE	NC
DENTON AREA TEACHERS CREDIT UNION	DENTON	TX
DESTINY MORTGAGE GROUP INC	BIRMINGHAM	AL
DIRECT MORTGAGE BANKERS CORPORAION	CARLSBAD	CA
DISCOVER FINANCIAL GROUP INC—OREGON	CANBY	OR
DIVERSIFIED BAY MORTGAGE	SAN RAMON	CA
DJB OUTSOURCING GROUP INC	DESOTO	TX
DOT FINANCIAL INC	SACRAMENTO	CA
EAB MORTGAGE COMPANY INC	GARDEN CITY	NY
EAGLE MORTGAGE GROUP INC	CASSELBERRY	FL
EASTERN MORTGAGE COMPANY INC	EMERALD ISLE	NC
ELDORADO BANK	SACRAMENTO	CA
ELITE FUNDING INC	BALDWIN PARK	CA
EMPIRE HOME LENDING CORPORATION	BOCA RATON	FL
ENTERPRISE FINANCIAL COMPANY	WEST BLOOMFIELD	MI
ENTERPRISE MORTGAGE CORP	LANSING	MI
EQUALITY SAVINGS AND LOAN ASSN	ST LOUIS	MO
EQUITY UNLIMITED COMPANY	ATLANTA	GA
ERETZ FUNDING LTD	BROOKLYN	NY
EUROPEAN AMERICAN BANK AND TR CO	UNIONDALE	NY
EXCHANGE BANK OF MISSOURI	FAYETTE	MO
FAIR LENDING FINANCIAL SERVICES INC	MAITLAND	FL
FAIRGREEN MORTGAGE CO LLC	ATLANTA	GA
FAMILY SECURITY FINANCIAL LLC	WALLSVILLE	UT
FARMERS AND MERCHANTS BANK	COLBY	KS
FARMERS AND MERCHANTS BANK	STANLEY	WI
FARMERS NATIONAL BANK	OPELIKA	AL
FAST TRAC MORTGAGE LLC	ENGLEWOOD	CO
FIDELITY FEDERAL BANK	IRVINE	CA
FIDELITY NATIONAL MORTGAGE CORP	CLINTON TOWNSHIP	MI
FIFTH THIRD BANK INDIANA	EVANSVILLE	IN
FIFTH THIRD BANK NW OHIO NA	TOLEDO	OH
FIFTH THIRD BANK OF COLUMBUS	DUBLIN	OH
FIFTH THIRD BANK OF SOUTHERN OH	HILLSBORO	OH
FIFTH THIRD BANK WESTERN OHIO NA	DAYTON	OH
FINANCIAL AND REAL ESTATE SERV	CYPRESS	CA
FINANCIAL CONSULTANTS OF AMERICA INC	STUDIO CITY	CA
FINANCIAL DYNAMICS FUNDING CORP	MINEOLA	NY
FIRST AMERICAN NATIONAL FINANCIAL GROUP	RANCHO CUCAMONGA	CA
FIRST BANK AND TRUST COMPANY	PROVIDENCE	RI
FIRST BANK FARMERSVILLE	FARMERSVILLE	TX
FIRST BENEFICIAL MORTGAGE CORP	CHARLOTTE	NC
FIRST CAPITAL MORTGAGE AND ASSOC INC	MARIETTA	GA
FIRST CHESAPEAKE MORTGAGE CORP	ANNAPOLIS	MD
FIRST CHICAGO MORTGAGE CO	CHICAGO	IL
FIRST CHOICE HOME LOANS INC	CONYERS	GA
FIRST CHOICE MORTGAGE INC	IRVINE	CA
FIRST COLONIAL SAVINGS BANK	HOPEWELL	VA

Name	City	State
FIRST COMMERCE MORTGAGE CO	LINCOLN	NE
FIRST COMMUNITY BANK FSB	KEOKUK	IA
FIRST COMMUNITY BANK SW GA	BAINBRIDGE	GA
FIRST COVENANT MORTGAGE CORP	BIRMINGTON	AL
FIRST DENVER MORTGAGE COMPANY	DENVER	CO
FIRST DISCOUNT MORTGAGE CORP	BIRMINGHAM	MI
FIRST EQUITY MORTGAGE LLC	MURRAY	UT
FIRST FEDERAL BANK CA	SANTA MONICA	CA
FIRST FEDERAL SAVINGS BANK	WASHINGTON COURTHOUSE	OH
FIRST FEDERAL SAVINGS BANK EASTERN OH	ZANESVILLE	OH
FIRST FLOYD BANK	ROME	GA
FIRST FOUNDATION MORTGAGE INC	TORRANCE	CA
FIRST FUND MORTGAGE CORPORATION	LAUDERHILL	FL
FIRST HARBOR FINANCIAL SERVICES LP	WILMINGTON	NC
FIRST HOMESTEAD FUNDING CORP	WHEATON	MD
FIRST HORIZON MORTGAGE INC	SHELBY TOWNSHIP	MI
FIRST INDEPENDENCE NATL BANK	DETROIT	MI
FIRST JEFFERSON MORTGAGE CORP	NORFOLK	VA
FIRST KANSAS FEDERAL SAVINGS ASSN	OSAWATOMIE	KS
FIRST NATION BANK	COVINGTON	GA
FIRST NATIONAL BANK	SILOAM SPRINGS	AR
FIRST NATIONAL BANK—GREENFIELD	GREENFIELD	IA
FIRST NATIONAL BANK AND TRUST	ROGERS	AR
FIRST NATIONAL BANK AND TRUST	PARSONS	KS
FIRST NATIONAL BANK OF MARENGO	MARENGO	IL
FIRST NATIONAL BANK OF O NEILL	O NEILL	NE
FIRST NATIONAL BANK OF PASCO	DADE CITY	FL
FIRST NATIONAL MORTGAGE BANC	PHOENIX	AZ
FIRST NATIONWIDE BANK FSB	DALLAS	TX
FIRST OAKMONT ENTERPRISES INC	LEHIGH	FL
FIRST OPTION FINANCIAL INC	CENTERVILLE	OH
FIRST STATE BANK	KEENE	TX
FIRST STATE BANK OF DENTON	DENTON	TX
FIRST STATE BANK OF PORTER	PORTER	IN
FIRST STATE FINANCIAL CORPORATION	NEWPORT BEACH	CA
FIRST SWITZERLAND FINANCIAL LTD	CHICAGO	IL
FIRST TENNESSEE BANK NA	MEMPHIS	TN
FIRST VIRGINIA MORTGAGE CO	FALLS CHURCH	VA
FIRST WESTERN BANK	SIMI VALLEY	CA
FIRST WESTERN BANK WALL	WALL	SD
FIVE POINTS BANK-HASTINGS	HASTINGS	NE
FLAGSHIP BANK AND TRUST CO	WORCESTER	MA
FLEET MORTGAGE GROUP INC	COLUMBIA	SC
FLEET NATIONAL BANK	PROVIDENCE	RI
FLORIDA FIRST FINANCIAL INC	TAMARAC	FL
FODARE INC	PALM BEACH GARDENS	FL
FORT CALHOUN STATE BANK	FORT CALHOUN	NE
FRANKLIN FIRST FINANCIAL LTD	WEST HEMPSTEAD	NY
FRANKLIN-LAMOILLE BANK	ST ALBANS	VT
FREEDOM FINANCIAL SERVICES INC	SPRINGFIELD	MO
FREEDOM MORTGAGE COMPANY LLC	SOLDOTNA	AK
FREEL FINANCIAL SERVICES INC	TAMPA	FL
FRIENDSHIP COMMUNITY BANK	OCALA	FL
FRONTIER MORTGAGE CORPORATION	LAS VEGAS	NV
G E LENDERS INC	TIMONIUM	MD
GALLAND FINANCIAL SERVICES	ONTARIO	CA
GATEWAY BANK AND TRUST	RINGGOLD	GA
GATEWAY FINANCIAL LTD	MASSAPEQUA	NY
GATEWAY FUNDING CORPORATION	ALISO VIEJO	CA
GEORGIA BANK AND TRUST COMPANY	MARTINEZ	GA
GIBRALTAR FINANCE AND MORTGAGE INC	HOUSTON	TX
GLOBAL BANCORP INC	ANAHEIM	CA
GLOBAL BENEFITS INC	FORT LEE	NJ
GOLD BANC MORTGAGE INC	OVERLAND PARK	MO
GOLD COUNTRY NATIONAL BANK	MARYSVILLE	CA
GRAND FEDERAL SAVINGS BANK	GROVE	OK
GRAND WEST FINANCIAL LIMITED	COLORADO SPRINGS	CO
GREAT HOME MORTGAGES INC	LAKEWOOD	CO
GREATER CHICAGO BANK	BELLWOOD	IL
GULFSTREAM LENDING INC	DENVER	CO
H AND M MORTGAGE CORPORATION	CAPERRA	PR
HADDON SAVINGS BANK	HADDON HEIGHTS	NJ
HAMILTON FINANCIAL GROUP LTD	OAKBROOK	IL
HAMPTON MORTGAGE CORPORATION	CLARKSTON	MI

Name	City	State
HAMPTON ROADS FUNDING CORP	VIRGINIA BEACH	VA
HARTSVILLE COMMUNITY BANK NA	HARTSVILLE	SC
HAVEN MORTGAGE CORPORATION	RANCHO CUCAMONGA	CA
HERITAGE BANK	JONESBORO	GA
HIGHLAND MORTGAGE FINANCIAL GROUP INC	EVERGREEN	CO
HINSDALE FEDERAL BANK FOR SAVINGS	HINSDALE	IL
HOLLIDAY AMERICAN MORTGAGE LLC	OKLAHOMA CITY	OK
HOME CORPORATION	CITY OF INDUSTRY	CA
HOME FINANCE AND MORTGAGE INC	CORNELIUS	NC
HOME MORTGAGE FUNDING SERVICES	AURORA	CO
HOME MORTGAGE LLC	MIDDLETOWN	CT
HOMEBASE LENDING GROUP INC	DOWNEY	CA
HOMEOWNERS ASSISTANCE CORP	BEDFORD	NH
HOMEPOINT MORTGAGE INC	OGDEN	UT
HOMESOUTH MORTRGAGE SERVICES	HIRAM	GA
HOMESTART MORTGAGE CORPORATION	CHICAGO	IL
HOMESTEAD MORTGAGE COMPANY	SOUTHFIELD	MI
HSA RESIDENTIAL MTG SER TX INC	HOUSTON	TX
INDEPENDENCE BANK	KERNERSVILLE	NC
INDEPENDENT BANK OF OXFORD	OXFORD	AL
INDYMAC INC	PASADENA	CA
INNOVATIVE MORTGAGE COMPANY	SOUTH BEND	IN
INTEGRITY MORTGAGE GROUP INC	ELKHART	IN
INTER BANK	DUVALL	WA
INVVISION MORTGAGE INC	CARROLLTON	TX
J AND R MORTGAGE INC	SAN MATEO	CA
J M FINANCIAL SERVICES INC	BAY HARBOR	FL
JAN-RON FINANCIAL CORP DBA HOME FIN MTG	TORRANCE	CA
JD REECE MORTGAGE COMPANY	MISSION WOODS	KS
JEFFERSON HERITAGE MORTGAGE CO	BALLWIN	MO
JONES COMPANY FINANCIAL SERVICES LTD	BRENTWOOD	TN
KANSAS STATE BANK—OTTAWA	OTTAWA	KS
KEYPORT LIFE INSURANCE COMPANY	BOSTON	MA
KIRTLAND FEDERAL CREDIT UNION	ALBUQUERQUE	NM
KMC MORTGAGE SERVICES INC	NAPLES	FL
LANDMARK PACIFIC MORTGAGE	FAIR OAKS	CA
LEGACY FINANCIAL AND INSURANCE CNTR INC	ST GEORGE	UT
LENDING NOW INC	JACKSONVILLE	FL
LIBERTY MORTGAGE LP	SAN DIEGO	CA
LIFE INSURANCE CO GEORGIA	ATLANTA	GA
LIFETIME MORTGAGE INC	INDIANAPOLIS	IN
LOAN FACTORY INC	HOUSTON	GA
LOANKEY FINANCIAL INC	WALNUT CREEK	CA
LOANS AMERICA MORTGAGE CORPORATION	MIAMI	FL
LOANS FOR RESIDENTIAL HOMES MORTGAGE	EAST GREENWISH	RI
LUCKY REALTY HOMES INC	PIKESVILLE	MD
LUTHERAN BROTHERHOOD	MINNEAPOLIS	MN
M AND I BANK	SUPERIOR	WI
M AND I BANK OF SOUTHERN WISCONSIN	MADISON	WI
M AND I COMMUNITY STATE BANK	EAU CLAIRE	WI
M AND I FIRST AMERICAN BANK	WAUSAU	WI
M L MORTGAGE INC	HOUSTON	TX
M-ONE CAPITAL CORP	RANCHO CUCAMONGA	CA
MARC S ENGLISH FINL SRVCS	ARLINGTON	TX
MARQUETTE BANK MONTANA NA	CONRAD	MT
MARQUETTE BANK NA	NEW HOPE	MN
MARX MORTGAGE ONE INC	FOREST PARK	IL
MASCOMA SAVINGS BANK FSB	LEBANON	NH
MATRIX MORTGAGE CO LLC	INDIANAPOLIS	IN
MCKENZIE BANKING COMPANY	MCKENZIE	TN
MERCANTILE BANK ARKANSAS	NORTH LITTLE ROCK	AR
MERCANTILE TRUST AND SAVINGS BANK	QUINCY	IL
MERCHANTS AND FARMERS BANK	HOLLY SPRINGS	MS
MERIDIAN GROUP MORTGAGE CORP	CARMEL	IN
MERIDIAN RESIDENTIAL GROUP INC	ENGLEWOOD CLIFF	NJ
METROBOSTON MORTGAGE CO INC	CANTON	MA
METROPOLITAN FINANCIAL INC	CHICAGO	IL
METTER BANKING COMPANY	METTER	GA
MID AMERICA MORTGAGE SERVICES OF ST LOUI	ST LOUIS	MO
MID INDIANA MORTGAGE INC	INDIANAPOLIS	IN
MID-CITY FINANCIAL INC	ARLINGTON	TX
MID-CITY NATIONAL BANK	CHICAGO	IL
MID-CONTINENT CASUALTY COMPANY	TULSA	OK
MIDWEST BANK DETROIT	LAKES	MN

Name	City	State
MILAM FINANCIAL SERVICES LLC	HOUSTON	TX
MILLENIUM FUNDING GROUP INC	EUSTIS	FL
MILLENIUM HOME MORTGAGE LLC	PARSIPPANY	NJ
MILLENNIUM MORTGAGE COMPANY	SIOUX FALLS	SD
MILLENNIUM MORTGAGE FUNDING	SUNRISE	FL
MILLENNIUM MORTGAGE INVESTORS INC	ANNANDALE	VA
MILLENNIUM RESIDENTIAL MORTGAGE LLC	HOUSTON	TX
MINER KENNEDY ASSOCIATES INC	SCOTTSDALE	AZ
MINNWWEST BANK SLAYTON	SLAYTON	MN
MMI MORTGAGE CORP	HESPERIA	CA
MNB FINANCIAL SERVICES INC	DALLAS	TX
MODIS MORTGAGE INC	LOS ANGELES	CA
MOHAWK PROGRESSIVE FEDERAL C U	SCHENECTADY	NY
MONEY LENDERS INC	MIAMI	FL
MONTECITO BANK AND TRUST	SANTA BARBARA	CA
MORTGAGE ADVISORS INC	CHICAGO HEIGHTS	IL
MORTGAGE BANKERS SERVICE CORPORATION	CORAL SPRINGS	FL
MORTGAGE BEACON INC	CLEARWATER	FL
MORTGAGE CONSULTANTS INC	COLUMBIA	MD
MORTGAGE EXECUTIVES INC	PORTLAND	OR
MORTGAGE FINANCING INC	BIRMINGHAM	AL
MORTGAGE FREEDOM COMPANY INC	TUALATIN	OR
MORTGAGE MONEY INC	MEMPHIS	TN
MORTGAGE ONE OF NEVADA INC	LAS VEGAS	NV
MORTGAGE PROFESSIONALS INC	EL PASO	TX
MORTGAGE SOLUTIONS LLC	BLOOMINGTON	IN
MORTGAGE TEAM INC RANCHO	SANTA MARGAR	CA
MUTUAL LENDING CORPORATION	DIAMOND BAR	CA
NASHOBA BANK	GERMANTOWN	TN
NATIONAL BANK ANDOVER	ANDOVER	KS
NATIONAL BANK OF COMMONWEALTH	INDIANA	PA
NATIONAL BANK OF FREDERICKSBURG	FREDERICKSBURG	VA
NATIONAL HOME LOAN CORPORATION	DEERFIELD BEACH	FL
NATIONAL LIFE INSURANCE CO	MONTPELIER	VT
NATIONWIDE MORTGAGE AND LOAN CORPORATION	MIAMI	FL
NEIGHBORHOOD MORTGAGE BANKERS INC	VALLEY STREAM	NY
NETHOMEFINANCIAL LP	ALBUQUERQUE	NM
NEW DIMENSIONS FINANCIAL SER	ROLLING MEADOWS	IL
NEW LIFE MORTGAGE CO	NORTH MIAMI BEACH	FL
NEW ORLEANS MORTGGE LENDING CORP	NEW ORLEANS	LA
NEW WEST MORTGAGE CO	NORTH HOLLYWOOD	CA
NEW WORLD MORTGAGE COMPANY INC	ENGLEWOOD CLIFFS	NJ
NF INVESTMENTS INC	ATLANTA	GA
NHC MORTGGAE GROUP LP	HOUSTON	TX
NO CAROLINA TEACHRS ST EMP RET	RALEIGH	NC
NORMAN METRO MORTGAGE COMPANY LLC	NORMAN	OK
NORTH AMERICAN BANKING COMPANY	ROSEVILLE	MN
NORTH CAROLINA MUTUAL LIFE INS	DURHAM	NC
NORTH SOUND BANK	SILVERDALE	WA
NORTH STAR BANK	ROSEVILLE	MN
NORTHCENTRAL MORTGAGE SERVICES CORP	OCALA	FL
NORTHEAST FLORIDA MORTGAGE INC	SOUTH HAMPTON	FL
NORTHERN FINANCIAL MORTGAGE LLC	LOVELAND	CO
NORTHSHORE MORTGAGE CORP	METAIRIE	LA
NORTHSTAR MORTGAGE LP	TEMECULA	CA
NORTHWEST BANK	ROANOKE	TX
NORTHWESTERN SAVINGS BANK AND TRUST	TRAVERSE CITY	MI
OAK HILL BANKS	JACKSON	OH
OAK TREE FINANCIAL CONCEPTS	FREDERICK	MD
OCEAN BANK	MIAMI	FL
OHIO BANK	FINDLAY	OH
OLYMPIC FINANCIAL SERVICES	FULLERTON	CA
ON-LINE MORTGAGE EXPRESS	UPLAND	CA
ONE SOURCE MORTGAGE GROUP INC	INDIANAPOLIS	IN
ORCHARD FEDERAL SAVINGS BANK	ONTARIO	OR
PACIFIC COAST FINANCIAL SERVICE	SAN CLEMENTE	CA
PACIFIC MORTGAGE FUNDING CORP	NORWALK	CA
PARADIGM FINANCIAL LLC	NINEVEH	IN
PENIEL INVESTMENT CORPORATION	MONTEBELLO	CA
PEOPLES BANK	MILLINGTON	TN
PEOPLES BANK	CUBA	MO
PEOPLES MORTGAGE LENDING SERVICES INC	ORLANDO	FL
PERFORMANCE MORTGAGE CORP	HENDERSONVILLE	TN
PERPETUAL BANK FSB	ANDERSON	SC

Name	City	State
PERSONAL MORTGAGE SERVICES INC	PORT CHARLOTTE	FL
PINNACLE BANK	LITTLE ROCK	AR
PINNACLE MORTGAGE INC	EAST HANOVER	NJ
PIONEER BANK	BAKER CITY	OR
PLATINUM CAPITAL MORTGAGE INC	CHAMBLEE	GA
PLATINUM MORTGAGE LENDING CORP	SUNRISE	FL
PLG FUNDING CORPORATION	SOUTHFIELD	MI
PLUMAS BANK	SUSANVILLE	CA
PORT GIBSON BANK	PORT GIBSON	MS
PORTUGUESE CONTINENTAL FEDERAL CR UN	NEWARK	NJ
PRECEPT CORPORATION	OAKLAND	CA
PRECISE MORTGAGE SERVICES INC	ELMSFORD	NY
PRECISE MORTGAGE SERVICES INC	DENTON	TX
PRIMEQWEST FINANCIAL CORP	CARLSBAD	CA
PROFESSIONAL MORTGAGE ASSOCIATES LTD	CLARKSTON	MI
PROGRESSIVE MORTGAGE	BROWNSVILLE	TX
PROGRESSIVE MORTGAGE AND INVESTMENT CORP	SHREVEPORT	LA
PROMISTAR BANK	JOHNSTOWN	PA
PSP FINANCIAL SERVICES INC	IRVINE	CA
PUTNAM MORTGAGE CORPORATION	STONEHAM	MA
QPOINT HOME MTG LOANS BELLEVUE MAIN INC	BELLEVUE	WA
QUALITY LENDING LP	KATY	TX
R B MORTGAGE CO	SAN BERNARDINO	CA
R M G FUNDING GROUP INC DBA NATIONAL BAN	CANOGA PARK	CA
RAHWAY SAVINGS INSTITUTION	RAHWAY	NJ
REAL MERC INVESTMENT INC	NORTHRIDGE	CA
REDLANDS CENTENNIAL BANK	REDLANDS	CA
REGAL MORTGAGE SERVICES INC	INDIANAPOLIS	IN
REPUBLIC BANK	DARIEN	IL
RESIDENTIAL CREDIT CORPORATION	WESTMINSTER	CA
RIVER CITY MORTGAGE LP	SACRAMENTO	CA
RIVERSIDE MORTGAGE COMPANY LLC	LABELLA	FL
RIVERWAY BANK	HOUSTON	TX
RODRIGUEZ CHAVEZ CORP	HOUSTON	TX
ROYAL FINANCE INC	WEST PALM BEACH	FL
RSO INC	GREENFIELD	IN
RUSTY ROSE INC	MIAMI	FL
S AND C BANK	NEW RICHMOND	WI
SAJJ LLC	DALLAS	TX
SAN JOAQUIN FINANCIAL	FRESNO	CA
SCHULER MORTGAGE INC	BELLEVUE	WA
SCHWEGMANN BANK AND TRUST COMPANY	HARVEY	LA
SECURITY FIRST FINANCIAL LLC	SOUTH OGDEN	UT
SECURITY NATIONAL BANK AND TR CO NORMAN	NORMAN	OK
SFM LLC	BRENTWOOD	TN
SIERRA FOOTHILL FINANCIAL INC	OAKHURST	CA
SIERRA FOOTHILL MORTGAGE CORP	AUBURN	CA
SIMMONS FIRST BANK DUMAS	DUMAS	AR
SIX RIVERS NATIONAL BANK	EUREKA	CA
SOUTH JERSEY SAVINGS AND LOAN ASSN	TURNERSVILLE	NJ
SOUTH SIDE NATIONAL BANK—ST LOUIS	SAINT LOUIS	MO
SOUTHERN MORTGAGE LENDING CORPORATION	MEMPHIS	TN
SOUTHERN MORTGAGE SERVICES	MIAMI	FL
SOUTHERN STATES FUNDING	ORLANDO	FL
SOUTHLAND MORTGAGE BANKERS INC	MIAMI	FL
SOUTHLAND MORTGAGE INVESTMENT GROUP INC	GAINESVILLE	FL
SOUTHWEST NATIONAL BANK	GREENSBURG	PA
SPECIALIZED FINANCIAL SERVICES	BEDFORD	TX
SPOKANE EMPLOYEES' RETIREMT SY	SPOKANE	WA
STATE BANK AND TRUST NA	TULSA	OK
STATE BANK OF DELANO	DELANO	MN
STATE BANK OF LIZTON	PITTSBORO	IN
STATE BANK OF YOUNG AMERICA	NORWOOD YOUNG AMER	MN
STATE EMPLOYEES COMM CREDIT UNION	DES MOINES	IA
STATEWIDE MORTGAGE GROUP INC	MARCO ISLAND	FL
STERLING MORTGAGE CORP	OKLAHOMA CITY	OK
STEWART BOSSEL AND ASSOCIATES	CLEVELAND	OH
STONEHILL MORTGAGE CORPORATION	TAUNTON	MA
SUNCOAST MORTGAGE BANKERS	MIAMI	FL
SUNRISE MORTGAGE SERVICES	MIAMI	FL
SUNSHINE STATE MORTGAGE INV CORP	MIAMI	FL
SUPERIOR FIRST MORTGAGE LLC	ADDISON	TX
SUSSEX COUNTY STATE BANK	FRANKLIN	NJ
SWIFT FINANCIAL SERVICES INC	WELLINGTON	FL

Name	City	State
TEHAMA COUNTY BANK	RED BLUFF	CA
TERRA FINANCIAL GROUP INC	PHILADELPHIA	PA
TEXAS COMMUNITY BANK	DALLAS	TX
TG MORTGAGE GROUP LP	HOUSTON	TX
THE LOAN STORE INC	ST LOUIS	MO
THE MORTGAGE FOUNDATION LP	ARLINGTON	WA
THE UNITED FEDERAL CREDIT UNION	MORGANTOWN	WV
TLC HOME FINANCE INC	PLACENTIA	CA
TMI FINANCIAL INC	AUSTIN	TX
TOPS MORTGAGE INC	LEHIGH ACRES	FL
TRACY FEDERAL BANK FSB	CASTRO VALLEY	CA
TRANSWORLD MORTGAGE CORP	HOUSTON	TX
TRAVELERS INS CO	HARTFORD	CT
TRIANGLE BANK	ROCKY MOUNT	NC
TRINITY GROUP LLC	BOISE	ID
TRUMAN BANK HOME MORTGAGE	ST LOUIS	MO
TWENTYFIRST FINANCIAL INC	LOS ANGELES	CA
TWIN RIVERS COMMUNITY BANK	EASTON	PA
UFG MORTGAGE CORPORATION	CLINTON TOWNSHIP	MI
UNICOR FUNDING INC	MISSION VIEJO	CA
UNION BANCSHARES MORTGAGE CORP	HOLIDAY	FL
UNION BANK	BEULAH	ND
UNION BANK	KANSAS CITY	MO
UNION BANK OF ILLINOIS	SWANSEA	IL
UNITED BANK	DEL CITY	OK
UNITED COMMUNITY BANK	DANVILLE	IL
UNITED NATIONAL MORTGAGE LLC	FISHKILL	NY
UNITED POWERHOUSE FUNDING	ANAHEIM	CA
UNIVERSAL LENDING GROUP INC	SOUTHLAKE	TX
UNIVERSITY BANK	ANN ARBOR	MI
UNIVERSITY MORTGAGE INC	ANN ARBOR	MI
US FUNDING MORTGAGE CORPORATION INC	PITTSBURG	PA
USA MORTGAGE GROUP INC	LAFAYETTE	IN
V A STREAMLINE INC	CARLSBAD	CA
VADIS MORTGAGE CORPORATION	HOLLYWOOD	FL
VALENCIO MORTGAGE CORP	WINTER SPRINGS	FL
VALLEY FINANCIAL FUNDING LLC	PHOENIX	AZ
VALLEY OAKS NATIONAL BANK	SOLVANG	CA
VIKING MORTGAGE CORP	PINOLE	CA
VIKING MORTGAGE SERVICES INC	LANGHORNE	PA
VINTAGE TRUST MORTGAGE	SALEM	OR
W C FINANCIAL INC	SANTA ANA	CA
W CRISS PETERS ENTERPRISES INC	FORT LAUDERDALE	FL
WASHINGTON STATE BANK	FEDERAL WAY	WA
WELLS FARGO BANK NORTHWEST NA	SALT LAKE CITY	UT
WELLS FARGO FUNDING INC	BLOOMINGTON	MN
WEST END REALTY SERVICES	RANCHO CUCAMONGA	CA
WESTCO REAL ESTATE FINANCE	COSTA MESA	CA
WESTERN AND SOUTHERN LIFE INS CO	CINCINNATI	OH
WESTERN FEDERAL MORTGAGE INC	BELLEVUE	WA
WESTERN FINANCIAL SAVINGS BANK	IRVINE	CA
WESTSOUND BANK	BREMERTON	WA
WHITE MOUNTAINS SERVICES CORP	ANN ARBOR	MI
WHITLYN COMPANY	AUSTIN	TX
WHOLESALE MORTGAGE LENDERS LLC	SHREVEPORT	LA
WILSHIRE INTERNATIONAL FIN NETWORK INC	LOS ANGELES	CA
WINVEST MORTGAGE CORPORATION	LAUDERDALE LAKE	FL
WOOD FINANCIAL SERVICES COMPANY	BEND	OR
WOODMONT FINANCIAL SERVICES GROUP LLC	BRENTWOOD	TN
WOODSVILLE GUARANTY SAVINGS BANK	WOODSVILLE	NH
WORLD WIDE MONEY CENTER INC	SAN DIEGO	CA
WORLDNET FINANCIAL SERVICES INC	GREENSBORO	NC
XLN INC	NEWPORT BEACH	CA
YALE NEW HAVEN HEALTH FCU	NEW HAVEN	CT

Dated: March 27, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner, Chairman Mortgagee Review Board.

[FR Doc. 03–8276 Filed 4–4–03; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Recovery Plan for Chaparral and Scrub Community Species East of San Francisco Bay, CA, for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for Chaparral and Scrub Community Species East of San Francisco Bay, California for public review. This draft recovery plan addresses six species, and includes recovery criteria and measures for one plant *Arctostaphylos pallida* (pallid manzanita) and one animal Alameda whipsnake (*Masticophis lateralis euryxanthus*) that are federally listed as threatened. In addition, four species of concern are addressed, three plants [*Arctostaphylos manzanita* ssp. *laevigata* (Contra Costa manzanita), *Cordylanthus nidularius* (Mt. Diablo bird's-beak), and *Eriogonum truncatum* (Mt. Diablo buckwheat)] and one animal (Berkeley kangaroo rat (*Dipodomys heermanni berkeleyensis*). The latter two are presumed extinct.

DATES: Comments on the draft recovery plan must be received on or before August 5, 2003, to receive our consideration.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California (telephone: 916–414–6600). Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Wayne S. White, Field Supervisor, Ecological Services, at the above address. An electronic copy of this draft recovery plan will also be made available at *http://www.r1.fws.gov/ecoservices/endangered/recovery/default.htm.*

FOR FURTHER INFORMATION CONTACT: Heather Bell or Kirsten Tarp, Fish and Wildlife Biologists, at the above address, or at 916–414–6600.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

The six species addressed in this draft recovery plan occur primarily in the chaparral and scrub habitats in a three county area east of the San Francisco Bay in California. All species addressed in the draft recovery plan are threatened by the loss, fragmentation, or degradation of chaparral habitat in the eastern San Francisco Bay Area. Therefore, areas currently, historically, or potentially occupied by the species are recommended for habitat protection and/or special management considerations.

The objectives of this draft recovery plan are to:

(1) Ameliorate the threats that caused *Arctostaphylos pallida* and Alameda whipsnake to be listed, and ameliorate any other newly identified threats in order to be able to delist these two federally listed species;

(2) Ensure the long-term conservation of *Arctostaphylos manzanita* ssp. *laevigata* and *Cordylanthus nidularius;* and

(3) Confirm the status of the two presumed extinct species of concern, *Eriogonum truncatum* and Berkeley kangaroo rat. If these species are not rediscovered, insights gained as to reasons for extirpation may assist in community restoration. If extant populations of these species are discovered, the ultimate goal would be to ensure their long-term conservation.

Public Comments Solicited

We solicit written comments on the draft recovery plan described. All comments received by the date specified above will be considered in developing a final recovery plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: December 13, 2002.

Steve Thompson,

Manager, California/Nevada Operations Office, Region 1, Fish and Wildlife Service.

[FR Doc. 03–8325 Filed 4–4–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for Caspian Tern Management in the Columbia River Estuary and Notification of Six Public Scoping Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), this notice advises the public that the U.S. Fish and Wildlife Service (Service), the U.S. Army Corps of Engineers (Corps), and the National Marine Fisheries Service (NMFS) are preparing an Environmental Impact Statement (EIS) for Caspian Tern *(Sterna caspia)* Management in the Columbia River estuary, and announces six public scoping meetings. The proposed project study area includes the States of Washington, Oregon, California, Idaho, and Nevada. We are furnishing this notice in compliance with NEPA and implementing regulations for the following purposes: (1) To advise other agencies and the public of our intentions; (2) to obtain

suggestions and information on the issues related to the proposed project to be addressed in the EIS; and (3) to announce public meetings for scoping.

DATES: Written comments are encouraged, and should be received no later than 5 p.m. Pacific time on May 22, 2003. Interested parties may contact the Service for more information at the address below. Proposed project information will be presented, and comments will be accepted at each meeting. The meeting dates and times are:

1. April 14, 2003, 5:30–8:30 p.m., Oakland, CA.
2. April 15, 2003, 5:30–8:30 p.m., Arcata, CA.
3. April 28, 2003, 5:30–8:30 p.m., Aberdeen, WA.
4. April 29, 2003, 5:30–8:30 p.m., Olympia, WA.
5. May 5, 2003, 5:30–8:30 p.m., Astoria, OR.
6. May 6, 2003, 5:30–8:30 p.m., Portland, OR.

ADDRESSES: Address comments, requests for more information related to the preparation of the EIS, or requests to be added to the mailing list for this project to: Nanette Seto, Migratory Birds and Habitat Programs, 911 NE 11th Avenue, Portland, OR 97232, telephone (503) 231–6164, facsimile (503) 231–2019.

The meeting locations are:

1. Oakland, Marriott, 1001 Broadway, Oakland, CA.
2. Arcata, Redwood Park Lodge, East Park Road, Arcata, CA.
3. Aberdeen, Grays Harbor College, 1620 Edward P. Smith Dr., Aberdeen, WA.
4. Olympia, Washington State Capital Museum, 211 West 21st Ave., Olympia, WA.
5. Astoria, Duncan Law Seafood Center, 2021 Marine Drive #200, Astoria, OR.
6. Portland, Double Tree Hotel, Lloyd Center, 1000 North East Multnomah, Portland, OR.

SUPPLEMENTARY INFORMATION:

Background

In 2000, Seattle Audubon, National Audubon, American Bird Conservancy, and Defenders of Wildlife filed a lawsuit against the Corps alleging that compliance with NEPA for the proposed action of relocating a large colony of Caspian terns from Rice Island to East Sand Island, to reduce tern predation on salmon smolts, was insufficient; and against the Service in objection to the potential take of eggs as a means to prevent nesting on Rice Island. In 2002, all parties reached a settlement agreement. Terms of the agreement require the provision of approximately 6 acres of habitat for Caspian terns on East Sand Island and the prohibition of lethal take of adults or eggs on Rice Island. The settlement agreement also stipulates that the Service, Corps, and NMFS prepare an EIS to address salmon smolt predation and Caspian tern management in the Columbia River estuary.

Current Planning Effort

The Service, Corps, and NMFS are beginning the process of developing an EIS for Caspian tern management in the Columbia River estuary. The EIS will address the following issues: (1) Caspian tern predation on salmon smolts in the Columbia River estuary; (2) management of Caspian terns in the Pacific Coast/Western region, particularly the colony on East Sand Island in the Columbia River estuary; and (3) long-term ownership and management of East Sand Island in the Columbia River estuary.

Preliminary Scoping Issues

The following preliminary issues and questions have been identified for consideration in the EIS. Additional issues will be identified during public scoping.

1. Predation by the current Caspian tern colony on East Sand Island may have impacts on listed salmonids in the Columbia River estuary. Salmon experience high mortality rates as juveniles during the freshwater, estuary and early ocean stages, leading researchers to suggest that reducing mortality during the juvenile stage has the potential to increase population growth rates. NMFS is concerned over the increasing impact of avian predation on listed salmonids in the Columbia River estuary.

2. Is there a need to actively manage the Caspian tern colony on East Sand Island to ensure long-term conservation of this species in the Pacific Coast/Western region? Natural and human-caused events have reduced or eliminated habitat in the Pacific Coast/Western region; 8 of 15 historic colonies have been lost or abandoned in the last 20 years. Currently, about 24 colonies of Caspian terns are breeding in the region, with many concentrated on few remaining suitable sites. In particular, East Sand Island contains about 70 percent of the tern population in the region. This large colony may be vulnerable to catastrophic accidents in the Columbia River and stochastic events such as storms, predators, human disturbance, and disease.

3. Management actions may be required to protect salmonid stocks and the Caspian tern colony in the Columbia River estuary. Federal and State agencies, and nongovernmental organizations have agreed to explore the need and opportunity to restore, create, and enhance nesting habitat for Caspian terns in the Pacific Coast/Western region as one means to reduce and disperse the large tern colony on East Sand Island in the Columbia River estuary. The benefits of this action would reduce the level of tern predation on out-migrating Columbia River smolts and lower the vulnerability of a significant portion of the breeding Caspian terns in the Pacific Coast/Western region to catastrophic events.

Public Comments

Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address. All comments received from individuals on Environmental Impact Statements become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, the Council on Environmental Quality's NEPA regulations (40 CFR 1506.6(f)), and other Service and Departmental policy and procedures. When requested, the Service generally will provide comment letters with the names and addresses of the individuals who wrote the comments. However, the telephone number of the commenting individual will not be provided in response to such requests to the extent permissible by law. Additionally, public comment letters are not required to contain the commentator's name, address, or other identifying information. Such comments may be submitted anonymously to the Service.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

Dated: March 7, 2003.

Rowan Gould,

Deputy Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 03–6898 Filed 4–4–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1410–ET; AA–6981]

Public Land Order No. 7560; Withdrawal of Public Lands for Haida Corporation; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 63.05 acres of public lands located within the Tongass National Forest from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to section 10(a)(1) of the Haida Land Exchange Act of 1986, as amended. Any lands selected by the Haida Corporation shall remain withdrawn until they are conveyed. Any lands described herein that are not conveyed to the corporation will remain withdrawn as part of the Tongass National Forest, and will be subject to the terms and conditions of any other withdrawal or segregation of record.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

Order

By virtue of the authority vested in the Secretary of the Interior by section 10(a)(1) of the Haida Land Exchange Act of 1986, Pub. L. No. 99–664, as amended, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and are hereby reserved for selection by the Haida Corporation:

Copper River Meridian

Tongass National Forest

(a) Siginaka Islands (unsurveyed)

Twelve islands located within secs. 19, 20, 29, 30, 31 and 32 of T. 54 S., R. 63 E.

The areas described aggregate approximately 45.89 acres.

(b) Silver Point/Cobb Islands (unsurveyed).

Three islands located within sec. 18 of T. 56 S., R. 64 E.

The areas described aggregate approximately 17.16 acres.

The areas described in (a) and (b) above aggregate approximately 63.05 acres.

2. Prior to conveyance of any lands withdrawn by this order, the lands shall be subject to administration by the Department of Agriculture, Forest Service, under applicable public land laws governing the use of National Forest System land. Any lands described in this order not conveyed to the corporation, shall remain withdrawn as part of the Tongass National Forest and will be subject to the terms and conditions of any withdrawal or segregation of record.

Dated: March 11, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–8305 Filed 4–4–03; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 12960]

Public Land Order No. 7561; Revocation of Secretarial Order Dated June 10, 1931; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in its entirety as it affects approximately 73 acres of National Forest System lands withdrawn to protect several water sources within the Tonto (formerly Crook) National Forest for recreational development. The Forest Service has determined that the withdrawal is no longer needed. This action will open the lands to mining.

EFFECTIVE DATE: May 7, 2003.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, 602–417–9437.

SUPPLEMENTARY INFORMATION: The Forest Service has determined that the withdrawal is no longer needed and has requested the revocation.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated June 10, 1931, which withdrew National Forest System lands for several water sources within the Tonto (formerly Crook) National Forest for recreational development, is hereby revoked in its entirety.

2. At 10 a.m. on May 7, 2003, the lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 11, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–8306 Filed 4–4–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–025–1430–ES; G–03–0065]

Notice of intent to amend the Three Rivers Resource Management Plan

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to amend the Three Rivers Resource Management Plan (RMP).

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to amend an RMP for the Three Rivers Resource Area. BLM intends to consider a land tenure adjustment allocation and associated land sale proposal, which would require amending an existing land use plan. The Three Rivers Resource Area covers the management of public land administered by the BLM in northern Harney County, Oregon. The plan amendment will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and BLM management policies. The BLM will work collaboratively with interested parties to identify the management decisions that

are best suited to local, regional, and national needs and concerns.

DATES: This notice initiates the public scoping process. Comments on issues and planning criteria can be submitted in writing to the address listed below for 30 days following the publication of this notice in the **Federal Register**. Comments will be considered in an Environmental Assessment (EA) and plan amendment to be prepared by an interdisciplinary team, which will analyze the impacts of this proposal and a reasonable range of alternatives. No public meetings or field trips are scheduled at this time, but could be arranged if there is sufficient public interest. Any such meetings will be announced in the Burns Times-Herald with a minimum of 15 days advance notice.

ADDRESSES: Written comments on the proposed amendment, classification, and conveyance should be sent to the BLM Three Rivers Resource Area Field Office, 28910 Highway 20 West, Hines, OR 97738. Existing planning documents and information will be mailed to all known interested parties, and are available at the above address during normal working hours or online at the Burns District Web site at *http://www.or.blm.gov/Burns* under ''Planning Documents'' or by phone at (541) 573–4400. Availability of planning documents will be announced in the Burns Times-Herald.

FOR FURTHER INFORMATION CONTACT: Skip Renchler, Realty Specialist, Three Rivers Resource Area, 28910 Highway 20 West, Hines, Oregon 97738.

SUPPLEMENTARY INFORMATION: The purpose of the amendment is to facilitate the conveyance of public land containing the Burns Butte Shooting Range to the Burns Butte Sportsman's Club (Club). The Club has leased the land pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*) since 1992, and has fully developed the range in accordance with their approved plan of development. They have now made application to purchase the land under the Act. The existing RMP identifies the land for retention (Land Tenure Zone 1). If the plan amendment is approved the land will be rezoned for disposal through appropriate sale authorities (Land Tenure Zone 3).

The following described land is the subject of this proposed plan amendment and is being examined for classification and conveyance under the Recreation and Public Purposes Act:

Willamette Meridian

T.23S., R.30E.

Sec. 21, NE¼, N½SE¼.

The land described above aggregates 240 acres in Harney County, Oregon.

When completed, the EA and, if appropriate, Finding of No Significant Impact, will be available for a 30-day comment period.

There are no known significant issues related to this project as a change in land ownership is not expected to alter existing land uses. The interdisciplinary team will include, at a minimum, specialists in land use planning, realty, recreation, wildlife biology, and hazardous materials.

Comments, including names and addresses of commentors, will be available for public review. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for inspection in their entirety.

Joan M. Suther,

Three Rivers Resource Area Field Manager.

[FR Doc. 03–8304 Filed 4–4–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: extension of a currently approved collection; Department Initial Report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 3, page 567 on January 6, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

Overview of this information collection:

(1) Type of Information Collection: Extension of a Currently Approved Collection.

(2) Title of the Form/Collection: Department Initial Report (DIR).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: none. The U.S. Department of Justice Office of Community Oriented Policing Services is sponsoring this information collection.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Recipients of the Funding Accelerated for Small Towns (FAST) program, the Accelerated Hiring, Education and Deployment (AHEAD) program, and/or Universal Hiring Program (UHP) grants. Other: Applicants of the current hiring grant program, UHP, or interested parties. Abstract: The DIR is a collection instrument that the COPS Office uses to establish a baseline to evaluate the progress of agencies awarded grants under the FAST, AHEAD, and UHP grant programs.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The DIR will be sent to approximately 500 grantees per year. The estimated amount of time required for the average respondent to complete and return the form is 1.5 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: There are 875 estimated burden hours associated with this collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20503.

Dated: April 2, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–8381 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Extension of A Currently Approved Collection, U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encourage and will be accepted until June 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7297.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Requisition for Order Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: DEA–222 and DEA–222a. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will asked or required to respond, as well as a brief abstract: Primary; Business or other for-profit. Other: Federal government, State, Local and Tribal Governments, Nonprofit Entities. Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Respondents are DEA registrants eligible to handle these controlled substances.

(5) An estimate of the total number of respondents are the amount of time estimated for an average respondent to respond: It is estimated that there are a total of 100,870 respondents to this information collection. It is estimated to take 0.05 hours for a purchaser to requisition DEA Forms 222, using DEA Form 222a. It is estimated to take purchasers 0.333 hours to complete, annotate and file each order. It is estimated to take suppliers 0.333 hours to enter data regarding each order into a computer system, annotate the order and file it. It is estimated to take suppliers 9 hours a month to log and track DEA Forms 222 and prepare the monthly mailing of required information to DEA. It is estimated to take 0.25 hours to sign and execute each power of attorney letter. The annual average time spent to dependent on the number of orders completed and filled.

(6) An estimated of the total public burden (in hours) associated with the collection: The average annual public burden is 3.9 million hours, assuming a 6 percent annual growth rate in the number of orders.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC.

Dated: April 2, 2003.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 03–8386 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: reinstatement, with change, of a previously approved collection for which approval has expired; Police Corps Service Agreement.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until [June 6, 2003.]. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ms. I. Sausjord, The Office of Police Services, Office of Justice Programs, US Department of Justice, 810 Seventh Street NW., Washington, DC 20531, facsimile (202) 353–0598.

Request written comments and suggestions from the public and affected agencies concerning the proposed

collection of information are encouraged. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired.

(2) Title of the Form/Collection: Police Corps Service Agreement

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: none. The Office of Police Corps Services, Office of Justice Programs, US Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. The Police Corps Service Agreement is the written contract between the Office of Police Corps and Law Enforcement Education and Police Corps Participants to complete police corp training, and setting forth the participant's agreement to provide 4 years of law enforcement service at an accredited agency in exchange for scholarship or reimbursement funds for educational purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 500 respondents will complete a 30 minute form.

(6) An estimate of the total public burden (in hours) associated with the collection: There are estimated 250 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington DC 20530.

Dated: April 1, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–8382 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired; Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

The Department of Justice, Office of Justice Programs, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 6, 2003.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Camille Cain, (202) 514–6015, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

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 function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) Type of information collection: Reinstatement, Without change, of a Previously Approved Collection for Which Approval Has Expired.

(2) The title of the form/collection: Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: OJP Form 4061/6.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local or Tribal. Other: none. The Bureau of Justice Assistance is requesting the Office of Management and Budget approval for a collection of information from the State offices which administer formula grant awards under the provisions of Subtitle C-State and Local Law Enforcement Assistance Act of the Anti-Drug Abuse Act of 1988, as amended by the Crime Control and the Immigration Acts 1990. This guidance document consolidates guidance related to the Formula Grant Program which has been provided to the States, including guidance which has been issued under separate cover to address specific Congressional requirements.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 398 respondents will complete an application for benefits.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated total annual burden hours associated with this information collection are 26,829.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC 20530, or via facsimile at (202) 514–1590.

Dated: April 1, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–8383 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day emergency notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired certification of compliance with the statutory eligibility requirements for tribal governments.

The Department of Justice, Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by April 18, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, (202) 395–7860, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Office on Violence Against Women, Office of Justice Programs, 810 7th Street, NW., Washington DC 20531, or facsimile at (202) 305–2589.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Certification of Compliance with the Statutory Eligibility Requirements for Tribal Governments.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The Office of Management and Budget Number for the certification form is 1121/186. The Office on Violence Against Women, Office of Justice Programs, United States Department of Justice is sponsoring the collection.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: The affected public includes the approximately 100 grantees under the STOP Violence Against Indian Women Discretionary Grant Program. The STOP Violence Against Indian Women Discretionary Grants are designed to develop and strengthen tribal law enforcement and prosecutorial strategies to combat violent crimes against Indian women, as well as develop and strengthen victim services. The Violence Against Women Act of 1994 required that 4 percent of the amount appropriated each year for grants to combat violent crimes against women be made avialable for grants to Indian tribal governments. The Violence Against Women Act of 2000 increased this amount to 5 percent.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 100 grantees under the STOP Violence Against Indian Women Discretionary Grant Program less than one hour to complete the certification form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden to complete the certification form is less than 100 hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy, Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 1, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–8384 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day emergency notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired certification of compliance with the statutory eligibility requirements of the Violence Against Women Act.

The Department of Justice, Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by April 18, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, (202) 395–7860, Department of Justice Desk Officer, Washington, Dc 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Office on Violence Against Women, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531, or facsimile at (202) 305–2589. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The Office of Management and Budget Number for the certification form is 1125/185. The Office on Violence Against Women, Office of Justice Programs, United States Department of Justice is sponsoring the collection.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: The affected public includes STOP formula grantees (50 states, the District of Columbia and five territories (Guam, Puerto Rico, American Samoa, Virgin Islands, Northern Mariana Islands)). The STOP Violence Against Women Formula Grant Program was authorized through the Violence Against Women Act of 1994 (VAWA 1994) and reauthorized and amended by the Violence Against Women Act of 2000 (VAWA 2000). Its purpose is to promote a coordinated, multi-disciplinary approach to improving the criminal justice system's response to violence against women. It envisions a partnership among law enforcement, prosecution, courts, and victim advocacy organizations to enhance victim safety and hold offenders accountable for their crimes of violence against women. The Department of Justice's Office on Violence Against Women (OVW) administers the STOP Formula Grant Program funds which must be distributed by STOP state administrators according to statutory formula (as amended by VAWA 2000).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take 56 respondents (STOP state administrators) less than one hour to complete the certification form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the certification form is less than 56 hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy, Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 1, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–8385 Filed 4–4–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of March 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

None.

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–42,201; International Rectifier, Temecula, CA

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a) (2)(B) (II.B) (No shift in production to a foreign country) have not been met.

TA–W–50,350; Leviton Manufacturing Co., Inc., Hillsbrove Div., Warwick, RI

TA–W–50,994; Fishing Vessel (F/V) Teter Totter Clarks Point, AK

TA–W–50,782; EMCO Flow Systems, Longmont, CO

TA–W–50,722; Bickford Woodworking Products, Inc., Monmouth, ME

TA–W–50,694; Modern Molding Manufacturing, Inc., Pot Huron, MI

TA–W–50,476; Honeywell International, Coon Rapids, MN

TA–W–50,925 Annette Island Packing Co., Metlakatla, AK

TA–W–50,206; Inland Production Co., Inland Resources, Myton, UT

TA–W–51,166; Fishing Vessel (F/V) Double Eagle, Dillingham, AK

TA–W–50,900; Shrimping Vessel (S/V) Night Stalker, Homosassa, FL

TA–W–50,749; Alaska Commercial Fisheries Entry Commission Permit #SO4K61848J, Douglas Island, AK

TA–W–50,844; Fishing Vessel (F/V), Jennifer Lynn, Togiak, AK

TA–W–50,842; Fishing Vessel (F/V) Anna Mae, Port Heiden, AK

TA–W–50,730; PPG Industries, Inc., Automotive Coating Div., Troy, MI

TA–W–50,517; Carl Zeiss IMT Corp., Minneapolis, MN

TA–W–50,459; Suss Microtec, Inc., Waterbury, VT

TA–W–50,441; Fishing Vessel (F/V), Slipstream, Dillingham, AK

TA–W–51,261; Fishing Vessel (F/V) Lonny A., Ekwok, AK

TA–W–51,207; General Electric Co., Industrial Systems, Mebane, NC
TA–W–51,239; Fishing Vessel (F/V) Pamela Dawn, Kodiak, AK
TA–W–51,186; State of Alaska Commercial Fisheries Entry Commission, Permit #64734J, Togiak, AK
TA–W–50,909; International Foam Products, Inc., Carlstadt, NJ
TA–W–50,995; Fishing Vessel (F/V) Kira, South Naknek, AK

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–50,772; Symbol Technologies, Inc., Detroit Service Center, Farmington Hills, MI
TA–W–51,048; Kayser-Roth Corp., Creedmoor Facility, Creedmoor, NC
TA–W–51,100 & A, B; HMH Transportation, Inc., Hazlehurst, GA, Forest Park, GA and Los Angeles, CA
TA–W–51,030; Esco Corp., Danville, IL
TA–W–51,012; Convergys Information Management Group, Inc., Cincinnati, OH
TA–W–50,129 & A; IBM Corp., Global Services Div., Piscataway, NJ and Middletown, NJ
TA–W–50,857; Centre State International Trucks, Inc., Mt. Pleasant, IA
TA–W–51,244; Teletech Holdings, Duluth, GA
TA–W–51,082; Center Partners, Yukon, OK
TA–W–51,071; Nova Chemicals, Inc., United States Operating Center, Styrenics Business Div., EPS Business Unit, Moon Township, PA
TA–W–51,037; Jabil Global Services, Inc., Tampa, FL

The investigation revealed that criterion (a)(2)(A) (I.A) (no employment declines) has been met.

TA–W–51,164; Fishing Vessel (F/V) Melody Lynn, Aleknagik, AK
TA–W–50,753; Fishing Vessel (F/V) Rainbow, Manokotak, AK
TA–W–51,168; Fishing Vessel (F/V) Vanessa, Kodiak, AK
TA–W–51,032; Wheeling-Pittsburgh Steel Corp., Allenport, PA
TA–W–50,903; Fishing Vessel (F/V) Samantha Kenny, Homosassa, FL
TA–W–50,863; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T60197A, Anchorage, AK
TA–W–50,697; State of Alaska Commercial Fisheries Entry Commission Permit #SO3T66854Jm Sand Point, AK
TA–W–50,392; Heckett Multiserv, Keppel, PA
TA–W–51,275; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T65905, Dillingham, AK
TA–W–51,162; Fishing Vessel (F/V), J.C., Dillingham, AK

The investigation revealed that criterion (a)(2)(A) (I.B) (sales or production, or both did not decline) and (a)(2)(A) (II.B) (no shift in production to a foreign country) have not been met.

TA–W–50,679; TRS Ceramics, Inc., State College, PA
TA–W–50,959; Harper Brush Works, Fairfield, IA
TA–W–51,185; Fishing Vessel North Runner, Egegik, AK

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a)(2)(B) (No shift in production to a foreign country) have not been met.

TA–W–50,859; Vishay Intertechnology, Vishay Cera-Mite Div., Oconto Falls, WI

The investigation revealed that criterion (a)(2)(A) (I.C) (increased imports) and (a)(2)(B) (II.C) (has shifted production to a country not under the free trade agreement within US) have not been met.

TA–W–50,217; Universal Instrument Corp., Corporate Operations Div., Binghamton, NY

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–42,180; Hy-Lift, LLC, Muskegon, MI: September 17, 2001.
TA–W–42,360; Precision Twist Drill Co., Rhinelander, WI: September 16, 2001.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–51,126; Kelly Industries, Inc., Eighty Four, PA: March 5, 2002.
TA–W–50,442; Dynamik Tool and Die, Dandridge, TN: December 6, 2001.
TA–W–50,470; Hitachi High Technologies America, Inc., Life Sciences Division, San Jose, CA: December 19, 2001.
TA–W–50,780; Piedmont Carving Co., Inc., Thomasville, NC: January 31, 2002.
TA–W–50,833; Caraustar Industries, Carolina Concerting, Northern Mill Div., Fayetteville, NC: February 1, 2002.
TA–W–50,802; Applied Micro Circuits Corp., San Diego, CA: January 21, 2002.
TA–W–50,850; PTC Alliance Midwest Manufacturing, Chicago Heights, IL: February 5, 2002.
TA–W–51,083; Fernbrook and Co., Palmerton, PA: March 6, 2002.
TA–W–50,520; Omnitronics, LLC, Conneaut, OH: December 29, 2001.
TA–W–51,182; Ball Corp., Metal Food Container Operation, Blytheville, AR: March 14, 2002.
TA–W–51,112; OSRAM Sylvania, General Lighting Div., Maybrook, NY: February 21, 2002.
TA–W–51,031; National Presto Industries, Inc., Eau Claire, WI: February 24, 2002.
TA–W–50,980; International Paper Co., Chemical Cellulose Div., Natchez, MS: February 7, 2002.
TA–W–50,976; Madeleine Manufacturing Co., Inc., Union, SC: February 15, 2002.
TA–W–50,890; Calapooia Valley Mushrooms, Brownsville, OR: February 7, 2002.
TA–W–50,886; Dana Brake Parts, Inc., Litchfield, IL: February 11, 2002.
TA–W–50,832 A; Ionics, Inc., Fabrication Products Div., Bridgeville, PA and Canonsburg, PA: February 5, 2002.
TA–W–50,708; Peace Industries, Ltd, Ace Fastener Div., Rolling Meadows, IL: January 27, 2002.
TA–W–50,610; Warnaco, Inc., Intimate Apparel Div., Thomasville, GA: January 13, 2002.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–50,965; Crescent Cardboard Co., LLC, Lee MA: February 19, 2002.
TA–W–50,367; Autoliv ASP, Inc., Indianapolis, IN: December 12, 2001.
TA–W–50,671; Motorola Computer Group, a wholly-owned subsidiary of Motorola, Inc., Tempe, AZ: January 20, 2002.
TA–W–50,829; Engineered Medical Systems, Inc., including leased workers of Spherion, Indianapolis, IN: February 6, 2002.
TA–W–50,864; Fishing Vessel (F/V) Jenny O. Dawn, Naknek, AK: February 4, 2002.
TA–W–50,888; Go/Dan Industries, Inc., Div. of Transpro, Inc., Buffalo, NY: February 12, 2002.
TA–W–50,798; Overseas Manufacturing Systems of America, Inc., El Paso, TX: January 16, 2002.
TA–W–50,728; Delco Remy America, Inc., Anderson, IN: October 17, 2002.
TA–W–51,237; Fishing Vessel Sea Pride, Everett, WA: March 15, 2002.

TA–W–51,235; Fishing Vessel (F/V) Halowawa, Ketchikan, AK: March 12, 2002.
TA–W–51,225; Compton Corp., Naugatuck Facility, Naugatuck, CT: March 13, 2002.
TA–W–51,155; Buckbee-Mears St. Paul, a Div. of BMC, Inc., St. Paul, MN: March 10, 2002.
TA–W–51,147; Manitowoc Boom Trucks, Inc., d/b/a Manitex, York, PA: March 10, 2002.
TA–W–51,143; Tyco Healthcare Retail Group, a Div. of Tyco Healthcare, including leased workers of Manpower and Adecco, Harmony, PA: March 13, 2002.
TA–W–51,135; Advance USA LLC, New Stanton, PA: March 12, 2002.
TA–W–51,124; Pass and Seymour, Compression Molding Group, a subsidiary of Legrand, including leased workers of The Holland Group, Concord, NC: March 6, 2002.
TA–W–51,122; Emerson Appliance Controls, Frankort, IN: March 5, 2002.
TA–W–51,065; GE Interlogix, North St. Paul, MN: March 4, 2002.
TA–W–50,982; Tarkett, Inc., Sample Department, a subsidiary of Domco Tarket, Inc., including leased workers of Hobart-West and Adecco, Newburgh, NY: February 13, 2002.
TA–W–50,882; Pirelli Power and Cable Systems LLC, Energy Div., Colusa, CA: February 3, 2002.
TA–W–50893; Best Manufacturing Group LLC, Griffin, GA: February 10, 2002.
TA–W–50,873; Scantibodies Laboratory, Inc., Pregnancy Test Kit/PTK Quality Control Department, Santee, CA: January 29, 2002.
TA–W–50,871; Jabil Circuit, Inc., St. Petersburg, FL: February 10, 2002.
TA–W–50,851; Sentex Systems, a Div. of Link Door Controls, Chatsworth, CA: January 30, 2002.
TA–W–50,906; ArvinMeritor, Inc., including leased workers of Randstad Staffing, Gordonsville, TN: March 11, 2002.
TA–W–50,824; Formtech Enterprises, Inc., Quick Plastics Div., including leased workers of Kelly Services, Inc., Jackson, MI: February 6, 2002.
TA–W–50,816; Nevamar Co., High Pressure Laminate Div., Hampton, SC: February 4, 2002.
TA–W–50,785; RMI Titanium Co., Niles, OH: January 17, 2002.
TA–W–50,766; Vishay Sprague Sanford, Inc., Sanford, ME: April 4, 2003.
TA–W–50,293; Mitsubishi Electric Automation, Inc., Vernon Hills, IL: December 9, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of March 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–07626; Maidenform, Inc., Jacksonville, FL
NAFTA–TAA–06288; Regal Plastics, LLC, Roseville, MI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

None.

Affirmative Determinations NAFTA–TAA

None.

I hereby certify that the aforementioned determinations were issued during the month of March 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 28, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8338 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,492]

Adventure Travel, Iron Mountain, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application received on March 3, 2003, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Adventure Travel, Iron Mountain, Michigan was signed on February 7, 2003, and will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of a worker at Adventure Travel, Iron Mountain, Michigan engaged in activities related to travel services. The petition was denied because the petitioning worker did not produce an article within the meaning of section 222(3) of the Act.

The petitioner appears to allege that ''the 'article' definitions from the U.S.

Code Collections'' support the argument that travel services constitute production. The petitioner further states that ''as you can see, the code and hard data evidence I provided with my petition are synonymous.'' When the petitioner was contacted in regard to what was meant by ''US Code Collections'', she clarified that she meant section 222(3) of the Trade Act of 1974.

Of the several attachments sent with the original petition, the first is a letter written by the petitioner stating why the worker produced a product. The petitioner states that subject firm services required ''skills and tools'' to produce. When contacted for further clarification, the petitioner stated that the complexity of the work involved, including the fact that multiple airline carrier inventories were consulted to produce a single ticket, deserved consideration of the work as production.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222(3) of the Trade Act of 1974.

In the letter attached to the petition, the petitioner also asserts that the tickets produced by the subject firm are ''tangible'' and states that she ''has boxes and files of these very real copies of (travel) contracts''.

The fact that the terms of travel contract services performed by the petitioner are printed on paper does not constitute production of an article within the meaning of section 222(3).

The second attachment appears to be the first page of an e-mail from the ''Chairman of Congressional Travel Industry Caucus'' to Attorney General Ashcroft, with a section circled alleging that ''major carriers'' are engaging in unfair taxation and commission standards regarding U.S. and Canadian travel agents relative to ''foreign'' travel agents.

The information in this attachment has no bearing on the reason for denying the petitioning worker; an article was not produced within the meaning of section 222(3) of the Trade Act.

The third attachment is an untitled single page that appears to be printed from the internet. At the top of the page there is a table with the heading ''NAFTA by Country Trade Comparisons, 1992.'' The petitioner has circled a paragraph below this that suggests that there is a downward trend in U.S. production and a corresponding increase in U.S. service industries.

This information is irrelevant to the criteria used to assess eligibility for trade adjustment assistance.

The next attachment is titled ''Upheaval in Travel Distribution: Impact on Consumers and Travel Agents'' and appears to be an excerpt of a study authored by a congressional commission. On the first page, a section has been highlighted by the petitioner that describes the mission of the study to establish ''whether there are impediments to obtaining information about the airline industry's services and products.'' It seems to be the intent of the petitioner to assert that this congressional commission may be referring to the ''airline contracts'' (as noted on petition) processed by the petitioner as products, and that, as a result, the worker should be considered eligible for trade adjustment assistance. In another section circled by the petitioner, a section notes that ''internet technology is not going to save consumers from airline domination of retailing.'' Again, the petitioner appears to believe that commission's use of words (specifically, retailing) merit the acknowledgement of airline tickets as products.

In fact, the processing of contracts and/or tickets does not constitute production within the meaning of section 222(3).

Upon further review, the Department has determined that, even if the petitioning worker were considered a production worker, criterion (1) has not been met. Section 222 of the Trade Act defines an eligible worker ''group'' as ''three or more workers in a firm or an appropriate subdivision thereof.''

The investigation revealed that the subject firm is owner-operated and there are no employees of the firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 20th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8357 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,320]

American Bag Corporation, Stearns Plant, Stearns, KY; Notice of Negative Determination Regarding Application for Reconsideration

By application of January 23, 2003, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on January 3, 2003, and published in the **Federal Register** on February 4, 2003 (67 FR 5654).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at American Bag Corporation, Stearns Plant, Stearns, Kentucky engaged in the production of airbags, was denied because criterion (1) was not met. Employment did not decline in the relevant period, but in fact increased from January through November of 2002 relative to the same time period in 2001.

In the request for reconsideration, the company official confirms that there were no employment declines in the relevant period. However, he also asserts that the reason for this was that workers laid off from the Stearns facility were replaced with workers from American Bag Corporation, Winfield, Kentucky (workers at this facility are currently certified for trade adjustment assistance through August 29, 2003). The official concludes that, on a corporate wide level, employment levels for workers engaged in production of airbags did decline in the relevant period.

When assessing eligibility for trade adjustment assistance, the Department exclusively considers the relevant employment data for the facility where the petitioning worker group was employed. Thus corporate employment levels, in this context, are irrelevant. As

employment levels at the subject facility did not decline in the relevant period, criterion (1) has not been met.

The company official also asserts that the major customer of the subject firm imported competitive airbags.

In order for import data to be considered, employment declines must have occurred at the subject facility in the relevant period. As criterion (1) has not been met for the petitioning worker group, imports are irrelevant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 19th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8355 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,904]

B.J. Everett, Old Town, FL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 14, 2003, in response to a petition filed by a company official on behalf of workers at B.J. Everett, Old Town, Florida.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed in Washington, DC, this 26th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8341 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,222]

Bechtel Jacobs Company LLC, Piketon, OH; Notice of Negative Determination Regarding Application for Reconsideration

By application received on August 15, 2002, an attorney acting on behalf of the Paper, Allied-Industrial, Chemical and Energy International Union, Local 5–689, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Bechtel Jacobs Company LLC, Piketon, Ohio was signed on July 1, 2002, and published in the **Federal Register** on July 18, 2002 (67 FR 47400).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Bechtel Jacobs Company LLC, Piketon, Ohio engaged in activities related to the environmental management services and site restoration activities. The petition was denied because the petitioning workers did not produce an article within the meaning of Section 222(3) of the Act.

The union alleges that laid off workers at Bechtel Jacobs Company LLC, Piketon, Ohio were in direct support of United States Enrichment Corporation (USEC), which is currently TAA certified. The union proceeds to assert that, because the union secured ''bumping'' rights for laid-off workers of USEC (allowing them seniority rights in obtaining positions with Bechtel Jacobs), this tie to the TAA certified firm validates the petitioning workers' eligibility. The union also asserts that, as all union-represented employees of Bechtel Jacobs are fomer employees of USEC, the import impact on the certified firm has a direct bearing on the petitioning worker group.

There is no legal affiliation between Bechtel Jacobs and the TAA certified firm. In fact, the union lawyer attests to this, stating that the two companies are ''separate legal entities''. The existence of bumping rights (as established by a union) does not meet the connection required for petitioning worker eligibility based on affiliation to a TAA certified firm.

The petitioner further asserts that, because workers at Bechtel Jacobs are entirely reliant on production levels at USEC, the subject firm workers should be certified.

The fact that service workers are dependant on the production of a trade certified firm does not automatically make the service workers eligible for trade adjustment assistance. Before service workers can be considered eligible for TAA, they must be in direct support of an affiliated TAA certified facility. This is not the case for the Bechtel Jacobs LLC.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are under certification for TAA.

The petitioner appears to assert that workers laid off from Bechtel Jacobs are being denied eligibility for TAA because they chose to be employed, because if they had refused jobs at Bechtel Jacobs following their lay off from USEC, they would be considered eligible for TAA benefits.

Worker eligibility that is determined by layoffs that occurred at a firm that precedes the last place of employment is determined by the state on an individual basis to determine if the worker(s) meet the various factors under the existing certification during the relevant period.

Finally, the petitioner alleges that in a previous TAA certification of USEC (TA–W–37, 599A), a petition on behalf of workers at Bechtel Jacobs was withdrawn at the request of the Department. The petitioner further asserts that this request for withdrawal was due to the fact that there was already an existing TAA certification on behalf of workers at USEC. In essence, the union asserts that they were informed by the Department that workers of Bechtel Jacobs would be considered part of the petitioning worker group at USEC. As a result of this precedent, the petitioner concludes that the Department itself identified a connection between Bechtel Jacobs and USEC that established grounds for

petitioning worker eligibility for TAA benefits in the current investigation.

The TAA termination of the previous case (TA–W–39, 052) relates to the discovery that, during the verification process, it was revealed that the Bechtel Jacobs LLC workers were employed by USEC and terminated during the relevant period of the USEC TAA certification and thus could be considered eligible under that certification. Since the workers were impacted at USEC during the relevant period, those workers may qualify as terminated workers and thus meet the eligibility requirements as laid off workers of USEC during the relevant period. Thus the decision was made by the Union to withdraw the petition at that time since the workers could qualify under the USEC TAA certification.

Therefore, the petitioning group of workers transfer from USEC to a new company (Bechtel Jacobs) doesn't qualify a TAA certification under the name of Bechtel Jacobs. Bechtel Jacobs workers who were eligible for trade adjustment assistance in the USEC certification met eligibility requirements only because they had been separated from USEC, and thus the state was able to qualify the Bechtel Jacobs workers as separated USEC employees.

As already indicated, since the petitioning worker group in this investigation was not engaged in production, but performed a service (environmental management services and site restoration activities) for an unaffiliated firm, they do not qualify for eligibility under the Trade Act of 1974.

Conclusion

In conclusion, the workers at the subject firm did not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 18th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8348 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,386]

Burelbach Industries, Incorporated, Rickreal, OR; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 10, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 13, 2003, and published in the **Federal Register** on February 6, 2003 (68 FR 6211).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Burelbach Industries, Inc., Rickreal, Oregon was denied because the ''upstream supplier'' group eligibility requirement of section 222(b) of the Trade Act of 1974, as amended, was not met. The ''upstream supplier'' requirement is fulfilled when the workers' firm (or subdivision) is a supplier to a firm that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification. The workers of Burelbach Industries, Inc., Rickreal, Oregon did not act as an upstream supplier to a trade certified firm.

The petitioner appears to allege that he is applying for trade adjustment assistance on behalf of workers that are import impacted on primary and secondary grounds.

When addressing the issue of import impact, the Department considers imports of products ''like or directly competitive'' in the case of primary impacted firms, or whether the subject firm supplied a component in a product produced by a trade certified firm in the case of secondary impact. As neither the subject firm nor its major declining customers reported imports like or directly competitive with the sawmill equipment produced at the subject firm, primary import impact did not occur. As the subject firm did not produce a component used in the products of their customers, the allegation of secondary import impact is equally invalid.

The petitioner notes that several of the subject firm's customers have been certified for trade adjustment assistance due to import impact and thus appears to imply that the petitioning workers should be eligible for TAA.

As already noted, the declining customers of the subject firm do not import products like or directly competitive with those produced at the subject firm. Further, the subject firm produces sawmill equipment that is used to process timber, but as the equipment does not form a component part of the products produced at the customer firms, subject firm workers do not constitute upstream suppliers of trade certified firms.

The petitioner provides a list of other trade certified firms, claiming that these firms produced the same type of products as the subject firm, and thus appears to allege that the petitioning workers in this case should also be certified.

None of the three firms listed by the petitioner produce products like or directly competitive with the sawmill machinery produced by the subject firm. Of the trade certified firms listed, two were certified on the basis of increased company imports of products like or directly competitive with those produced at the subject firms. In the case of the other firm, workers were certified on the basis of increased customer imports of products like or directly competitive with those produced at the subject firm. In contrast to the trade certified firms described above, neither Burlebach Industries nor its customers reported imports of competitive sawmill machinery.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 25th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8356 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,007]

Cedar Creek Fibers, LLC, Formerly Wellman, Inc., Fayetteville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 27, 2003, in response to a worker petition filed on behalf of workers at Cedar Creek Fibers, LLC, formerly Wellman, Inc., Fayetteville, North Carolina.

The petitioning group of workers is covered by an active certification issued on September 19, 2002 (TA–W–41,409). Consequently, the investigation has been terminated.

Signed at Washington, DC this 25th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8345 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,184]

Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked January 2, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, North Carolina was signed on December 20, 2002, and published in the **Federal Register** on January 9, 2003 (67 FR 1199).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, North Carolina engaged in activities related to data entry. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner alleges that the reason subject firm workers were listed in the **Federal Register** as having been denied was on the basis ''that criterion (2) has not been met * * * the workers firm (or subdivision) is not a supplier or downstream producer for trade affected companies.''

In fact, the petitioner mistakenly quotes the paragraph below the listing of TA–W–50,184, when the correct paragraph citing the reason for the negative determination was above the listing. The relevant paragraph reads as follows: ''the workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.''

The petitioner alleges that ''several other groups from the same company and same town got coverage'' and that, on that basis, the petitioning worker group should also be considered eligible. The petitioner also appears to allege that, because the company marketed various products and services together as a ''Total Solutions'' package, all worker groups should be equally eligible.

In fact, only one other worker group has been TAA and NAFTA–TAA certified for Corning Cable Systems in Hickory, North Carolina. This worker group produced cable assembly hardware, which, unlike the data entry performed by the petitioning worker group, constitutes a product within the meaning of section 222 of the Trade Act. Further, the subject firm's marketing strategy in selling products and services in a package does not create the affiliation required for service in support of production. Service workers must perform a function that directly supports the production of the certified worker group in order to be eligible for trade adjustment assistance. In this case, the petitioning worker group performs data entry for the purpose of creating independent databases, and do not contribute to the production of cable assembly hardware of the worker group certified at the same facility.

The petitioner also asserts that the subject firm did not correctly address the petitioning worker group's function in describing their job duties as ''data entry'', implying that there were much more complex functions involved, and that the description does not properly take into account the ''technological knowledge and skills'' of the petitioning workers.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222(3) of the Trade Act of 1974.

The petitioner appears to allege that, because petitioning workers ''built virtual networks for fiber management,'' their work should be considered production.

Virtual networks are not considered production of an article within the meaning of section 222(3) of the Trade Act.

The petitioner appears to allege that, on the basis that that petitioning workers produced an article within the meaning of a dictionary definition provided in the request for reconsideration, the worker group should be eligible for trade adjustment assistance.

Petitioning workers do not produce an ''article'' within the meaning of the Trade Act of 1974. Databases are not tangible commodities, that is, marketable products, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), published by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes all articles imported to or exported from the United States. Furthermore, when a Nomenclature Analyst of the USITC was contacted in regards to whether virtual networks and databases provided by subject firm workers fit into any existing HTS basket categories, the Department was informed that no such categories exist.

In addition, the Trade Adjustment Assistance (TAA) program was established to help workers who produce articles and who lose their jobs as a result of trade agreements. Throughout the Trade Act an article is often referenced as something that can

be subject to a duty. To be subject to a duty on a tariff schedule an article will have a value that makes it marketable, fungible and interchangeable for commercial purposes. But, although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted, are not listed in the HTS. Such products are not the type of employment work products that customs officials inspect and that the TAA program was generally designed to address.

The petitioner also argues that the petitioning worker group did not simply ''provide services'', asserting that, because the data entry took the form of databases recorded on CD–ROMs, they ''handed over goods.''

Electronically generated information is not considered production in the context of assessing worker group eligibility for trade adjustment assistance. The fact that the device used to record electronically generated information processed by the petitioning workers has a physical form does not qualify the petitioning worker group as having produced an article.

The petitioner also alleges that imports impacted layoffs, asserting that because workers lost their jobs due to a transfer of job functions to India, petitioning workers should be considered import impacted.

The petitioning worker group is not considered to have engaged in production, thus any foreign transfer of their job duties is irrelevant within the context of eligibility for trade adjustment assistance.

The petitioner appears to assert that the Division of Trade Adjustment Assistance is ''supposed to look at each case individually'' in assessing the eligibility of worker groups for TAA. The petitioner also appears to suggest that, because the workers performed services that involved ''newer technology'', the meaning of ''article'' as defined in the Trade Act is outdated, and therefore irrelevant.

In fact, the eligibility of petitioning worker groups is considered exclusively within the context of section 222 of the Trade Act.

In conclusion, the workers at the subject firm did not produce an article within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 17th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8354 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,170]

Erasteel, Inc., McKeesport, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 6, 2003, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 24, 2003, and published in the **Federal Register** on February 24, 2003 (67 FR 8622).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Erasteel, Inc., McKeesport, Pennsylvania was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported cold drawn steel.

The petitioners state that their major customer imports high speed drill bits and blanks, and that these items are ''like or directly competitive with articles produced by'' subject firm workers. In a clarifying conversation with one of the petitioners, he stated that the steel produced at the subject firm was processed in such a way that its only possible end use was to form it into the drill bits and blanks produced by the customer.

The term ''like or directly competitive'' is drawn from a paragraph in section 222 of the Trade Act. In this paragraph, a ''like'' competitive product is described as an article which is ''substantially identical in inherent or intrinsic characteristics.'' A ''competitive product'' is described as an article which ''is substantially equivalent for commercial purposes.'' As the subject firm produces drawn steel and not drills bits or blanks, the subject firm products are not ''like'' or ''identical'' to potential customer imports of drill bits and blanks. Further, the drawn steel cannot be used for the same commercial purposes as the finished drill bits and blanks. Thus subject firm products are not ''like or directly'' competitive with alleged customer imports as stated in section 222(3) of the Trade Act.

The petitioners also allege that the subject firm imported competitive products in the relevant period. In an attempt to clarify this allegation, a petitioner was contacted. In response to a request for clarification, the petitioner stated that the subject firm briefly imported semi-finished steel coils for further processing at the subject firm; specifically, coils were imported that were sized to thinner dimensions at the subject firm. However, the subject firm stopped importing this semi-finished product prior to petitioner layoffs, according to the petitioner.

As described by the petitioner, the steel imported is not ''like or directly'' competitive with the steel produced by the subject firm. Further, a company official was contacted in regard to this allegation. The official clearly stated that the company did not import competitive drawn and ground bars. In response to the issue of imported coils, the official stated that the company only imported for a very brief period and that these imports did not prompt layoffs.

Finally, the petitioners acknowledge that a domestic shift in production caused the closure of the McKeesport facility.

However, they also assert that the need for Erasteel to consolidate their production was a direct result of business lost from their major customer, and that this customer was importing competitive products.

As has already been established, the major declining customer did not import ''like or directly'' competitive products.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 18th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8353 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,986]

F.L. Smithe Machine Company, Inc., Duncanville, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2003, in response to a worker petition filed by the International Association of Machinists and Aerospace Workers, Local Lodge 2348, on behalf of workers at F.L. Smithe Machine Company, Inc., Duncanville, Pennsylvania.

The petitioning group of workers is covered by an active certification issued on April 6, 2001 (TA–W–38,752). Consequently, the investigation has been terminated.

Signed at Washington, DC this 24th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8343 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,907]

Frametome Connectors, Inc., Communications, Data and Consumer Division, Fiber Optics Group, a Member of the Areva Group, Etters, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 14, 2003 in response to a petition filed on behalf of workers at Frametome Connectors USA, Inc., Communications, Data and Consumer Division, Fiber Optics Group, the Areva Group, Etters, Pennsylvania.

The petitioning group of workers is covered by an active certification issued on March 26, 2003 and which remains in effect (TA–W–50,122). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 26th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8342 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,285]

Honeywell International, ACS-Control Products, Albuquerque, NM; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 24, 2003 in response to a petition filed by a company official on behalf of workers at Honeywell International, ACS-Control Products, Albuquerque, New Mexico.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed at Washington, DC this 25th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8347 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,256]

Jackson Sewing Center, Madisonville, TN; Notice of Negative Determination on Reconsideration

On February 19, 2003, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially denied the workers of Jackson Sewing Center, Madisonville, Tennessee because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. Imports of sewn furniture parts did not contribute importantly to the layoffs at the subject plant. The workers at the subject firm were engaged in employment related to the manufacture (sewing) of upholstered furniture parts. The sewn articles were sent to other affiliated plants to be incorporated into upholstered furniture.

The petitioner asserts that company sales were down and thus the company was attempting to cut costs by importing Chinese products (cut-sewn fabric for furniture) competitive with those produced by the subject plant. The petitioner further alleges that, during September 2002, some ''parts'' from China were seen at an affiliated plant. The petitioner also supplied style numbers believed to be imported from China.

On reconsideration, the Department contacted the company for further clarification concerning company imports of cut-sewn fabric for upholstered furniture. In response to the style numbers supplied by the petitioner, the company indicated that, with the exception of one style number, they did not import these products. The one style number imported (7866) constituted a negligible amount in relation to production at the subject firm and the company further indicated this was a one time event during 2002, and in fact was not even produced at the subject firm, but rather at an affiliated facility. (However, the subject plant had the capability to produce that style.)

The company also reported that they imported cut-sewn leather furniture parts and tables but that they did not produce cut-sewn leather furniture parts and tables. In any event, the amount of imported cut-sewn leather furniture parts was extremely small in relation to production at the Madisonville plant during January through September 2002. In fact, the imported pre-cut and sewn leather covers were purchased from manufacturers that specialize in producing these products. The company indicated that the investment in equipment and training would far exceed any profitability they could expect in such a program.

The company also indicated that they imported tables during the relevant period. However, since the worker group does not produce this product,

imported tables are not ''like or directly'' competitive with what the subject plant produced (cut-sewn fabric for furniture parts) and thus does not meet the eligibility requirements of Section 222(3) of the Trade Act of 1974.

The plant ships all cut-sewn fabric parts for furniture produced at the subject plant to other affiliated plants that incorporate the sewn parts into furniture; therefore, a customer survey is not relevant to this investigation.

In summary, the sum of cut-sewn fabric and one style of cut-sewn leather furniture parts imported was extremely small amount relative to what the subject plant produced during the relevant period, and therefore did not contribute importantly to layoffs at the subject plant.

The company also indicated that from 2001 to 2002 the styles of furniture have changed and thus require a smaller number of cut sewn furniture parts to produce a piece of furniture.

The company further indicated that the Madisonville plant was an extension for the sewing operation of an affiliated domestic facility. The subject plant was opened several years ago when additional sewing capacity was needed at the affiliated plant, since the labor market was extremely tight. Since less sewing is now required the company decided to shift the sewing operation back to the affiliated plant.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Jackson Sewing Center, Madisonville, Tennessee.

Signed at Washington, DC this 21st day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8350 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,391]

Motorola, Inc., Deer Park, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 19, 2002, in response to a petition filed on behalf of workers at Motorola, Inc., Deer Park, Illinois.

The Department has amended an active certification for workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS) formerly Network Solutions Sector (NSS) (TA–W–40,501), to include the petitioning group of workers.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8340 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,311]

New England Iron, LLC, Springfield, MA; Notice of Negative Determination Regarding Application for Reconsideration

By application February 6, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on December 13, 2002, and published in the **Federal Register** on January 9, 2003 (67 FR 1201).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of New England Iron, LLC, Springfield, Massachusetts was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported grey iron castings. The company did not import grey iron castings in the relevant period.

The petitioner asserts that the subject firm was a tier (2) supplier to a tier (1) company that in turn machined the castings and sold them to an automaker. The petitioner further alleges that this automaker is currently having these machined castings made in Brazil.

In assessing the eligibility of a petitioning worker group for trade adjustment assistance, the Department considers imports that are ''like or directly'' competitive to those produced by the petitioning worker group. As the grey iron castings that are allegedly imported are subject to further processing (*e.g.*, machined), they would not be considered ''like or directly'' competitive with the grey iron castings produced by the subject firm, and thus do not meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC this 19th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8351 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,001 and TA–W–50,001A]

Reliant Bolt, Inc., Bedford Park, IL; Reliant Fastener, Rock Falls, IL; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on December 10, 2002, applicable to workers of Reliant Bolt, Inc., Bedford Park, Illinois. The notice was published in the **Federal Register** on December 26, 2002 (67 FR 78817).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Information shows that Reliant Fastener, Rock Falls, Illinois is a sister facility of

Reliant Bolt, Inc. All workers were separated at Reliant Fastener when the facility closed in November 2002. The workers were engaged in the production of fasteners for industrial and automobile industries.

Accordingly, the Department is amending the certification to include workers of Reliant Fastener, Rock Falls, Illinois.

The amended notice applicable to TA–W–50,001 is hereby issued as follows:

''All workers of Reliant Bolt, Inc., Bedford Park, Illinois (TA–W–50,001) and all workers of Reliant Fastener, Rock Falls, Illinois (TA–W–50,001A), who became totally or partially separated from employment on or after November 4, 2001, through December 10, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 5th day of February 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8339 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,989]

Sara Lee Bakery Group, Eau Claire, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2003 in response to a worker petition filed by Bakery, Confectionery, Tobacco Workers and Grain Millers Union, Twin Cities Local 22 on behalf of workers at Sara Lee Bakery Group, Eau Claire, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 25th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8344 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,047]

Search Resources, Workers Employed at Blandin Paper Co., Grand Rapids, MN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 4, 2003 in response to a worker petition which was filed on behalf of workers of Search Resources employed at Blandin Paper Company, Grand Rapids, Minnesota.

An active certification covering the petitioning group of workers is already in effect (TA–W–50,598, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 26th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8346 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,074]

Summit Manufacturing, LLC, West Hazelton, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 25, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on February 3, 2003 and published in the **Federal Register** on February 24, 2003 (68 FR 8619).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Summit Manufacturing, LLC, West Hazelton, Pennsylvania engaged in the production of steel telecommunications poles, steel pole modifications, cellular poles, sign and lighting poles, and flag poles was denied because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject firm's major customers regarding their purchases of steel telecommunications poles, steel pole modifications, cellular poles, sign and lighting poles, and flag poles in 2000, 2001 and 2002. None of the respondents reported increasing imports while decreasing purchases from the subject firm during the relevant period. Imports did not contribute importantly to layoffs at the subject firm.

The petitioner alleges that the imports of steel, especially from Canada increased from 2001 to 2002.

Imports of steel are not ''like or directly competitive'' with the products produced (steel telecommunications poles, steel pole modifications, cellular poles, sign and lighting poles, and flag poles) by the subject plant, thus this allegation is not relevant to the investigation.

The petitioner's request for reconsideration further states that the investigation took longer than the 40 days required to complete the investigation and, because of this, the workers of the subject plant should be certified.

The Department makes every effort to conduct a TAA investigation within the prescribed 40 day period. A review of the initial investigation shows that the responses by the company and customers took longer than normal. The Department bases its findings on facts after it receives all requested data necessary in order to make an accurate decision, regardless of timeframes.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 18th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8352 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,889]

United Container Machinery, Glen Arm, MD; Notice of Negative Determination Regarding Application for Reconsideration

By application January 1, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on November 29, 2002, and published in the **Federal Register** on December 23, 2002 (67 FR 78257).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of United Container Machinery, Glen Arm, Maryland was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported machinery for corrugated boxes.

The petitioner states that the subject firm workers were previously certified for trade adjustment assistance in 1998, and thus appears to allege that they should be considered eligible currently.

The Department considers import impact in terms of the relevant period of the current investigation; therefore import impact as established in a previous investigation that is outside the relevant period is irrelevant.

The petitioner also states that the company did not file a new petition on behalf of subject firm workers when the previous certification expired.

This fact has no bearing on eligibility of subject firm workers for trade adjustment assistance.

The petitioner asserts that an affiliate of the subject firm imports competitive products from Hungary.

In response to this allegation, a company official clarified that United Container Machinery did merge with another company in the late summer of 2002, and that the merger did include the acquisition of a Hungarian facility. He also verified that the foreign firm has imported a small percentage of their production to the United States for some time; however, imports of products produced from this facility have not increased since the merger, and so have not contributed to layoffs at the subject firm.

The petitioner asserts that a foreign competitor sells competitive products to at least two customers of the subject firm.

When contacted about this allegation, the company official stated that the two companies mentioned comprised a very small percentage of the subject firm's sales declines. In fact, according to the company official, the layoffs were not brought about by sales and production declines, but rather by a shift in production to two affiliated domestic facilities.

The petitioner also stated that United Container Machinery acted as a selling agent of competitive machinery and that this role ''in the long run affected some of our prospective sales.''

The company official that commented on this stated that the subject firm had taken part in a partnership with several foreign firms to sell competitive corrugated box machinery, receiving a commission for their services. However, the imports resulting from the partnership between the subject firm and the foreign firms constituted a very small amount relative to production at the Glen Arm facility. The company official further clarified that imports declined for the twelve months ending August of 2002, when the partnership ceased.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC this 25th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8349 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Reestablishment of Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Reestablishment of the Advisory Committee on Apprenticeship (ACA).

SUMMARY: Notice is hereby given that after consultation with the General Services Administration, the Department of Labor has determined that the reestablishment of a national advisory committee on apprenticeship is necessary and in the public interest. Accordingly, the Employment and Training Administration has chartered the Advisory Committee on Apprenticeship (ACA) which succeeds the Federal Committee on Registered Apprenticeship (FCRA). The charter for the FCRA expired on January 19, 2003. The current charter was signed February 13, 2003, and will expire two years from that date.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4671, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2796, (this is not a toll-free number).

Signed in Washington, DC, this 1st day of April 2003.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 03–8337 Filed 4–4–03; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–036]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to John R. Yadvish, Code RC, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Small Business Innovation Research Commercial Metrics

OMB Number: 2700–0095.

Type of review: Revision.

Need and Uses: This collection is used to assess the contributions of NASA funded Small Business Innovation Research (SBIR) technology.

Affected Public: Business or other for-profit.

Number of Respondents: 1000.

Annual Responses: 200.

Hours Per Request: 1.

Annual Burden Hours: 200.

Frequency of Report: Every three years.

Patricia L. Dunnington,

Chief Information Officer, Office of the Administrator.

[FR Doc. 03–8417 Filed 4–4–03; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before May 22, 2003. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–3120. e-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–03–6, 3 items, 3 temporary items). Records relating to the Military Assistance to Safety and Traffic program. Included are such records as reports relating to missions flown, operational plans, letters of agreement, and survey and audit information. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Health and Human Services, Centers for Medicare and Medicaid Services (N1–440–01–2, 19 items, 17 temporary items). Records relating to the standardization of medical procedure codes used in billing Medicare for medical supplies and

services. Included are such records as meeting and request files, electronic and paper records relating to codes, a web version of the annual summary, and electronic copies of records created using electronic mail and word processing. Electronic versions of annual data summaries and the supporting documentation are proposed for permanent retention.

3. Department of Justice, Drug Enforcement Administration (N1–170–03–2, 4 items, 3 temporary items). Electronic and paper feeder reports pertaining to weekly teletype reports sent by the Administrator to the Attorney General and agency staff summarizing significant activities and items of interest. Also included are electronic copies of records created using electronic mail and word processing. Finalized summaries maintained electronically at headquarters are proposed for permanent retention.

4. Department of Labor, Bureau of Labor Statistics (N1–257–03–1, 8 items, 7 temporary items). Survey instruments, intermediate reports, copies of publications, electronic data files of survey responses, and administrative records relating to special, one-time surveys conducted by the Office of Occupational Safety and Health Statistics. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of survey publications.

5. Department of Transportation, Federal Aviation Administration (N1–237–02–1, 3 items, 3 temporary items). Inputs, system documentation, and master files of the Substance Abuse Tracking System, which contains information about agency employees who have violated policy concerning substance abuse.

6. Department of Transportation, Federal Aviation Administration (N1–237–02–2, 2 items, 2 temporary items). Investigative case files relating to aircraft parts suspected of not meeting regulatory requirements. Also included are electronic copies of documents created using electronic mail and word processing.

7. Department of the Treasury, Office of the Treasurer (N1–56–03–5, 8 items, 7 temporary items). Correspondence, calendars, invitations, trip files, and subject files. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of speeches, testimonies, and public appearance comments made by the Treasurer.

8. Department of the Treasury, Community Development Financial Institution (N1–56–03–2, 43 items, 36 temporary items). Records relating to the administration of the Community Development Financial Institutions Fund, including such records as application files, agreements, certification files, event and outreach files, meeting notes, working files, and other administrative materials. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of program presentations, policy formulation files, and planning records relating to expanding financial services to Native American communities.

9. Department of the Treasury, Bureau of the Public Debt (N1–53–03–4, 2 items, 2 temporary items). Auction and Issue Folders, which include paper and electronic versions of auction bid forms, Treasury Direct system reports, and allotment wires.

10. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances (N1–412–02–04, 2 items, 2 temporary items). Records relating to unregistered pesticides, including such records as Foreign Purchaser Acknowledgement Statements, annual summaries from exporters, and export notice logs. Electronic copies of documents created using electronic mail and word processing are also included.

11. Environmental Protection Agency, Office of Administration and Resources Management (N1–412–03–8, 3 items, 3 temporary items). Grant and other agreement oversight records. Included are such records as correspondence, reports, policies and procedures, and other records relating to the oversight of grants and other assistance agreements for site-specific Superfund and non-Superfund programs. Electronic copies of records created using electronic mail and word processing are also included.

12. Environmental Protection Agency, Office of International Affairs (N1–412–03–10, 2 items, 2 temporary items). International travel records including such records as lists of trips and reports relating to the purpose and accomplishments of international trips. Also included are electronic copies of records created using electronic mail and word processing.

13. Peace Corps, Office of the General Counsel (N1–490–03–1, 12 items, 8 temporary items). Records relating to legislation, litigation, monetary claims, safety and security incidents, and other legal matters, including electronic copies of records created using word processing and electronic mail. Proposed for permanent retention are recordkeeping copies of files relating to legislation, regulatory matters, and policies and procedures as well as selected litigation case files.

14. Small Business Administration, Office of Government Contracting (N1–309–03–02, 7 items, 7 temporary items). Inputs, outputs, master files, system documentation, and system backups of the Certification of Competency Automated Computer System, which relates to the certification of small businesses as competent for Federal contracts. Included are electronic copies of documents created using electronic mail and word processing.

15. Small Business Administration, Office of Entrepreneurial Development (N1–309–03–06, 8 items, 8 temporary items). Inputs, outputs, master files, system documentation, and system backups of the Entrepreneurial Development Management Information System, which tracks technical assistance provided by the agency to small business clients. Included are electronic copies of documents created using electronic mail and word processing.

Dated: March 28, 2003.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 03–8301 Filed 4–4–03; 8:45 am]

BILLING CODE 7515–01–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–6, SEC File No. 270–433, OMB Control No. 3235–0489.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–6 (17 CFR 240.17a–6) permits national securities exchanges, national securities associations, registered clearing agencies, and the

Municipal Securities Rulemaking Board (collectively, ''SROs'') to destroy or convert to microfilm or other recording media records maintained under Rule 17a–1, if they have filed a record destruction plan with the Commission and the Commission has declared such plan effective.

There are 26 SROs: 9 national securities exchanges, 1 national securities association, 15 registered clearing agencies, and the Municipal Securities Rulemaking Board. These respondents file no more than one record destruction plan per year, which requires approximately 160 hours for each plan. However, we are discounting that figure by a factor of 20 given our experience to date with the number of plans that have been filed. Thus, the total annual compliance burden is estimated to be 8 hours. The approximate cost per hour is $200, resulting in a total cost of compliance for these respondents of $1,600 per year (8 hours @ $200 per hour).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 27, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8303 Filed 4–4–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 meetings during the week of April 7, 2003:

Closed meetings will be held on Tuesday, April 8, 2003, at 2:30 p.m. and Friday, April 11, 2003, at 11 a.m. An open meeting will be held on Friday, April 11, 2003, at 10 a.m. in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

Commissioner Campos, as duty officer, determined that no earlier notice thereof was possible.

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 meetings.

The subject matter of the closed meeting scheduled for Tuesday, April 8, 2003, will be:

Formal Orders of Investigation;
Institution and settlement of administrative proceedings of an enforcement nature;
Institution and settlement of injunctive actions.

The subject matter of the open meeting scheduled for Friday, April 11, 2003, will be:

The Commission will hear oral argument on an appeal by Monetta Financial Services, Inc. (''MFS''), a registered investment adviser, Robert S. Bacarella, the president and a director of MFS, and Richard D. Russo, an independent trustee of the Monetta Trust, from an administrative law judge's initial decision.

The law judge found that respondents violated section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934, and Exchange Act rule 10b–5. The law judge further found that Bacarella aided, abetted, and was the cause of MFS'' willful violations of sections 206(1) and 206(2) of the Investment Advisers Act of 1940. The law judge ordered respondents to cease and desist from these violations; suspended Bacarella from association with any investment adviser or registered investment company for 90 days, and fined him $100,000; suspended Russo from association with any registered investment company for 30 days, fined him $25,000, and ordered him to pay disgorgement of $28,823, plus prejudgment interest; and censured MFS, and fined the firm $200,000.

The Commission will consider the following issues:

(1) Whether respondents committed the alleged violations;

(2) Whether Robert S. Bacarella aided, abetted, or was a cause of MFS'' violations of section 206 of the Investment Advisers Act of 1940; and

(3) If so, whether sanctions are appropriate and in the public interest.

The subject matter of the closed meeting scheduled for April 11, 2003, will be:

Post-argument Discussion.

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: April 2, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–8434 Filed 4–2–03; 4:05 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [65 FR 15249, March 28, 2003].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Additional Meeting.

An additional Closed Meeting will be held on Friday, April 4, 2003 at 10:30 a.m.

Commissioner Campos, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, the Secretary to the Commission, and certain staff members who have an interest in the matter will attend the Closed Meeting.

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), (5), (7) and (10) and 17 CFR 200.402(a)(5), (7) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting will be: Formal Order of Investigation.

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: April 2, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–8508 Filed 4–3–03; 11:17 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47602; File No. 600–30]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

March 31, 2003.

Pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 24, 2003, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') a request that the Commission extend EMCC's temporary registration as a clearing agency.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend EMCC's temporary registration as a clearing agency through March 31, 2004.

On February 13, 1998, pursuant to Sections 17A(b) and 19(a)(1) of the Act[3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted EMCC's application for registration as a clearing agency on a temporary basis until August 20, 1999.[5] By subsequent orders, the Commission extended EMCC's registration as a clearing agency through March 31, 2003.[6]

EMCC was created to facilitate the clearance and settlement of transactions in U.S. dollar denominated Brady Bonds.[7] Since it began operations, EMCC has added certain emerging market sovereign debt and corporate debt to the list of eligible securities that may be cleared and settled at EMCC.[8] EMCC began operating on April 6, 1998, with ten dealer members.

As part of EMCC's initial temporary registration, the Commission granted EMCC temporary exemption from Section 17A(b)(3)(B) of the Act because EMCC did not provide for the admission of some of the categories of members required by that section.[9] To date, EMCC's rules still only provide membership criteria for U.S. broker-dealers, United Kingdom broker-dealers, U.S. banks, and non-U.S. banks. As the Commission noted in the Registration Order, the Commission believes that it is appropriate for EMCC to limit the categories of members during its initial years of operations because to date no entity in a category not covered by EMCC's rules has expressed an interest in becoming a member.[10] Accordingly, the Commission is extending EMCC's temporary exemption from Section 17A(b)(3)(B).

The Commission also granted EMCC a temporary exemption from Sections 17A(b)(3)(A) and 17A(b)(3)(F) of the Act to permit EMCC to use, subject to certain limitations, ten percent of its clearing fund to collateralize a line of credit at Euroclear used to finance on an intraday basis the receipt by EMCC of eligible instruments from one member that EMCC will redeliver to another member.[11] The Registration Order limited EMCC's use of clearing fund deposits for this intraday financing to the earlier of one year after EMCC commenced operations or the date on which EMCC begins its netting service. On April 2 and May 17, 1999, the Commission approved rule changes that permitted EMCC to implement a netting service and that extended EMCC's ability to use clearing fund deposits for intraday financing at Euroclear until all EMCC members are netting members.[12] Because not all of EMCC's members have become netting members, the Commission is extending EMCC's temporary exemption from Section 17A(b)(3)(A) and (F).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[13] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. 600–30. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the amended application for registration, all written statements with respect to the application that are filed with the Commission, all written communications relating to the application between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. All submissions should refer to File No. 600–30 and should be submitted by April 28, 2003.

It is therefore ordered, pursuant to Section 19(a) of the Act, that EMCC's registration as a clearing agency (File No. 600–30) be and hereby is temporarily approved through March 31, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8390 Filed 4–4–03; 8:45 am]

BILLING CODE 8010–01–P

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[1] 15 U.S.C. 78s(a).

[2] Letter from Merrie Faye Witkin, Senior Counsel and Assistant Secretary, EMCC (Feb. 24, 2003).

[3] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 39661 (Feb. 13, 1998), 63 FR 8711 (Feb. 20, 1998) (''Registration Order'').

[6] Securities Exchange Act Release Nos. 41733 (Aug. 12, 1999), 64 FR 44982 (Aug. 18, 1999); 43182 (Aug. 18, 2000), 65 FR 51880 (Aug. 25, 2000); and 44707 (Aug, 15, 2001), 66 FR 43941 (Aug. 21, 2001); 45648 (Mar. 26, 2002), 67 FR 15438 (Apr. 1, 2002).

[7] Brady bonds are restructured bank loans that were first issued pursuant to a plan developed by then U.S. Treasury Secretary Nicholas Brady to assist debt-ridden countries restructure their sovereign debt into commercially marketable securities. The plan provided for the exchange of bank loans for collateralized debt securities as part of an internationally supported sovereign debt restructuring. Typically, the principal and certain interest of these bonds is collateralized by U.S. Treasury zero coupon bonds and other high grade instruments.

[8] Securities Exchange Act Release Nos. 40363 (Aug. 25, 1998), 63 FR 46263 (Aug. 31, 1998); 41618 (July 14, 1999), 64 FR 39181 (July 21, 1999); and 46714 (Oct. 23, 2002), 67 FR 66031 (Oct. 29, 2002).

[9] Registration Order at 8716.

[10] EMCC has represented to the staff that it will modify its rules to provide admission criteria for other entities that wish to become EMCC members.

[11] Registration Order at 8720.

[12] Securities Exchange Act Release Nos. 41247 (Apr. 2, 1999), 64 FR 17705 (Apr. 12, 1999) and 41415 (May 17, 1999), 64 FR 27841 (May 21, 1999).

[13] 15 U.S.C. 78s(a)(1).

[14] 17 CFR 200.30–3(a)(50)(i).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47599; File No. SR–OCC–2002–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Money Market Funds as Margin Collateral

March 31, 2003.

I. Introduction

On January 29, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–OCC–2002–04 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 16, 2003.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The change to OCC's rule 604 expands the permissible forms of margin collateral to include shares in money market funds. The rule change also reorganizes the rule and makes certain nonsubstantive format changes.

Rule 604 specifies the forms of collateral that may be deposited as margin. Permitted forms of margin collateral include cash, government securities, letters of credit, and certain equity and debt securities.[3] OCC regularly reviews these forms of collateral for suitability with the intent of addressing clearing members' desire to use a diverse combination of readily available and cost-effective forms of collateral while ensuring that collateral is limited to instruments that are relatively stable in value and are easily converted to cash. OCC believes that shares in certain money market funds meet these criteria and that it is appropriate for OCC to expand its categories of acceptable collateral to include such instruments.

OCC believes that the professional asset management, liquidity, and stable principal value typically associated with money market funds make shares in such funds an attractive collateral alternative for all OCC clearing accounts. As a result of recent amendments to the regulations of the Commodity Futures Trading Commission (''CFTC''), clearing members that are registered as futures commission merchants are now permitted to invest customer funds of their futures customers in money market fund shares.[4] Accordingly, clearing members want to be able to pledge shares in such funds as margin for their ''non-proprietary'' cross-margining accounts. OCC believes that such deposits are appropriate collateral not only for cross-margining accounts but for all accounts.

Requirements for Eligibility of Funds

OCC will define acceptable money market funds as those meeting the criteria of SEC rule 2a–7,[5] ''Money Market Funds,'' under the Investment Company Act of 1940 (''ICA''),[6] subject to certain additional criteria. The ICA sets the standards by which mutual funds and other investment vehicles operate, and rule 2a–7 thereunder requires a qualifying money market fund to meet certain portfolio maturity, quality, and diversification criteria. Instruments that may qualify as permitted investments for money market funds typically include U.S. Treasury securities, repurchase agreements, Federal agency securities, commercial paper, certificates of deposit, time deposits, corporate notes, asset-backed securities, and municipal securities. To minimize credit risk, OCC will accept only money market funds that limit their investments to ''first tier securities'' as defined in rule 2a–7 under the ICA.[7] Although certain types of instruments that qualify as first tier securities would not qualify to be pledged directly as margin collateral under rule 604,[8] OCC believes that the rating requirements and maturity prerequisites combined with inherent diversification of the funds provides sufficient protection to warrant acceptance of shares of money market funds containing such instruments.

To ensure a diverse group of fund investors so that the actions of any one shareholder (*e.g.,* redeeming a large interest in a fund) do not materially disrupt the ability of the fund to redeem shares in an orderly manner, rule 604(b)(3) will prohibit a clearing member from depositing as margin collateral any money market fund where a registered holder of the money market fund has an interest of 10% or more in the money market fund.

In order for a fund's shares to be acceptable as margin collateral, the fund (and/or its sponsor, transfer agent, or other agent as appropriate) will be required to represent to OCC that it meets the foregoing requirements and to agree that it will continue to do so. In addition, OCC will require the fund to make certain other agreements intended to further ensure OCC's ability to convert fund shares promptly to cash if necessary.

Redemption

While the ICA generally prohibits mutual funds from suspending the right of redemption, the ICA does allow funds to postpone the payment of redemption proceeds for up to seven days after the tender of fund shares to the fund or its agent. The ICA also allows for the suspension or postponement of redemption in certain emergency situations. In addition, while the intent of a money market fund is to redeem shares in cash, most issuers retain the right to redeem their shares in kind where the redeeming shareholder would receive portfolio securities rather than cash. Any such action would introduce liquidation risk as well as additional costs associated with the sale of such securities.

Rule 604(b)(3)(i)(H) will require any fund accepted as margin collateral to waive its rights under the ICA to delay redemption or to redeem in kind. The fund will instead have to agree to redeem fund shares in cash no later than the business day following a redemption request by OCC with limited exceptions for unscheduled closings of Federal Reserve Banks or the New York Stock Exchange. These waivers of redemption restrictions along with the next day

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 47146 (January 9, 2003), 68 FR 2385.

[3] Pursuant to a rule filing approved by the Commission last year, OCC clearing members are allowed to deposit as margin debt securities issued by Congressionally chartered corporations that OCC's membership/margin committee has approved. Securities Exchange Act Release No. 45745 (April 12, 2002), 67 FR 19467 (April 19, 2002) (File No. SR–OCC–2001–04).

[4] In December 2000, the CFTC amended its Regulation 1.25 to expand the range of instruments in which FCMs and clearing organizations may invest customer segregated funds to include highly liquid instruments such as money market mutual funds. Rules Relating to Intermediaries of Commodity Interest Transactions, 65 FR 77993 (December 13, 2000).

[5] 17 CFR 270.2a–7.

[6] 15 U.S.C. 80a *et seq.*

[7] In general, a first tier security is a security with a remaining maturity of 397 calendar days or less that: (i) Has received a short-term rating from at least two nationally recognized statistical rating organizations in the highest short-term rating category for debt obligations; (ii) is unrated but is deemed to be of comparable quality to securities identified in (i) as determined by the fund's board of directors; (iii) is issued by a registered investment company that is itself a money market fund; or (iv) is a government security. 17 CFR 270.2a–7(a)(12).

[8] For example, OCC does not currently accept commercial paper, certificates of deposit, time deposits, corporate notes, asset-backed securities, or municipal securities.

payment requirement have been established to maintain adequate liquidity of margin collateral and are also intended to be consistent with the redemption conditions contained in CFTC rule 1.25.[9]

Valuation

OCC will require funds to perform a net asset value computation at least once per day with the dissemination of such computation to be made available to OCC no later than 9 a.m. central time the following day. Given the diversified nature of eligible fund investments as well as the investment duration limitations, a daily computation of net asset value appears reasonable. Nevertheless, OCC will apply a 2% haircut on the current market value of fund shares. The 2% haircut was selected for consistency with the treatment of similar assets under the net capital rule.[10]

OCC's Security Interest

As in the case of other securities held as collateral, OCC will require that clearing members give OCC a first priority perfected security interest in deposited fund shares. Because shares in money market funds are typically not issued in certificated form, ownership is established by registration of the securities on the books of the fund or its transfer agent. OCC can ordinarily obtain a perfected security interest in fund shares registered in the name of a clearing member by execution of the fund's standard three-party agreement among OCC, the clearing member, and the fund or its transfer agent.

In addition, to preclude a situation whereby a clearing member secures its obligations to OCC with collateral managed and within the control of that clearing member or a related party, an association restriction is included in rule 604(b)(3)(iii). This restriction is consistent with OCC rules regarding the deposit of government securities, debt or equity issues, or letters of credit as margin collateral.[11] This standard may be waived if the issuing institution can demonstrate that an acceptable arrangement has been made for the control of underlying portfolio investments and for the processing of OCC redemption requests by a third party.

OCC is also moving the provisions which require compliance with the Commission's rule 15c3–3 when applicable, formerly set forth in rule 604(d)(2), have been moved so that these provisions apply not only to equity and debt securities but to all securities deposited as margin under rule 604(b). A sentence has been added to these provisions to require compliance with the CFTC's customer protection regime when securities are deposited with respect to futures accounts.

OCC believes that the proposed rule change is consistent with the requirements of section 17A of the Securities Exchange Act of 1934, as amended, because it enhances the efficiency of the clearing system while still allowing OCC to safeguard securities and funds by permitting clearing members to collateralize their obligations to OCC with an additional form of highly liquid, stable value assets.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F).[12] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that OCC's rule change meets this requirement because while OCC clearing members will be able to deposit money market funds as margin collateral, OCC has established procedures with respect to the deposits of money market funds as margin collateral that should ensure that OCC will be able to safeguard the securities and funds that are within its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8387 Filed 4–4–03; 8:45 am]

BILLING CODE 8010–01–P

[9] CFTC Regulation 1.25(c)(5), 65 FR 77993, 78010, 78011 (Dec. 13, 2000); *see also,* 65 FR 82270 (Dec. 28, 2000). CFTC Interpretive Letter No. 01–31 (April 2, 2001) (Funds will be deemed in compliance with Regulation 1.25(c)(5) even though they provide for delayed redemption in specified emergency situations).

[10] 17 CFR 240.15c3–1(c)(2)(vi)(D)(*1*).

[11] OCC rule 604, Interpretation and Policies .07 and .10.

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47605; File No. SR–Phlx–2003–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. To Adopt a License Fee for Transactions in Standard & Poor's Depository Receipts®

April 1, 2003.

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 March 17, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange amended the proposal on March 28, 2003.[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 amend its Summary of Equity Charges to adopt a license fee of $0.00025 per share per trade side for sides greater than 500 shares, with no maximum fee per trade side charged to Non-PACE Customers[4] and Electronic Communications Networks (''ECNs''),[5] and a license fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 28, 2003, the Exchange filed a Form 19b–4, which completely replaced and superceded the original filing in its entirety (''Amendment No. 1''). For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on March 28, 2003, the date the Exchange filed Amendment No. 1. 15 U.S.C. 78(s)(b)(3)(C).

[4] PACE is the acronym for the Exchange's Automated Communication and Execution System, which is the Exchange's order routing, delivery, execution and reporting system for its equity trading floor. *See* Exchange Rules 229 and 229A.

[5] ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-

of $0.00035 per share per trade side, with no maximum fee per trade side charged to specialists for transactions on the Phlx in Standard & Poor's Depository Receipts® (''SPDRs'').[6] The Exchange also proposes to make minor, technical changes to its equity fee schedule to make corresponding references to the proposed fees. All other equity charges currently assessed by the Phlx will be imposed where applicable.[7]

The Exchange proposes to implement this fee as of March 17, 2003, the date that it began trading in the SPDRs. Text of the proposed rule change is set forth below. New text is in italics. Deleted text is in brackets.

SUMMARY OF EQUITY CHARGES
(P 1/[2]3)*

EQUITY TRANSACTION CHARGE I

Based on total shares per transaction with the exception of specialist trades and PACE trades.[1]

Monthly Transaction Value	Rate per share
First 500 shares	$0.00
Next 2,000 shares	$0.0075
Next 7,500 shares	$0.005
Remaining shares	$0.004

$50 maximum fee per trade side.

License Fee

*SPDRs, Standard & Poor's Depositary Receipts***

Customer Non-PACE and Electronic Communications Network[E] *(''ECN'') License Fee*

$0.00025 per share per trade side for sides greater than 500 shares

No maximum fee per trade side

Specialist License Fee

$0.00035 per share per trade side

No maximum fee per trade side

Pace Specialist Charge[2] I

$.20 per PHLX Specialist Trade against PACE Executions (Not applicable to PACE trades on the opening)

See Appendix A for additional fees.

I denotes fee eligible for monthly credit of up to $1,000.

* not applicable to transactions in Nasdaq-100 Index Tracking Stock℠ (see page [3]*4* for fees).

Summary of Equity Charges (p 2/[2]*3*)*

Equity Floor Brokerage Assessment I

$250 monthly charge[2]*3*

Equity Floor Brokerage Transaction Fee I

$.05 per 100 shares or fraction thereof, for floor broker executing transactions for their own member firms.

Sec Fee

The amount shall be determined by Section 31 of the Securities Exchange Act of 1934.

Off-Exchange Trade Information Fee I

$.10 per DOT trade

Remote Information Access Fee I

$300.00 per month

Electronic Communications Network[E] (''ECN'') Fee

$2,500.00 per month (in lieu of equity transaction charges)

Outbound ITS Fee I (also applicable to transactions in Nasdaq-100 Index Tracking Stock℠)[3]*4*

For PACE orders sent over ITS with the customer information attached:

500 shares or less—$0.60 per 100 shares

501 to 4,999 shares—$0.30 per 100 shares

Net Inbound ITS Credit (also applicable to transactions in Nasdaq-100 Index Tracking Stock℠)[4]*5*

$0.30 per 100 shares on the excess, if any, of the number of inbound ITS shares executed over the number of outbound ITS shares sent and executed on a monthly basis.

Summary of Equity Charges (p 3/3)

See Appendix A for additional fees.

I denotes fee eligible for monthly credit of up to $1,000.

* not applicable to transactions in Nasdaq-100 Index Tracking Stock℠ (*see* next page for fees).

[E] ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-counter (''OTC'') market maker, and permits such orders to be executed against in whole or in part; except that the term ECN shall not include: any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivative pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by or on behalf of an OTC market-maker or exchange market-maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

Any fees, credits, discounts and other charges in the Exchange's fee schedule which are based upon an equity specialist's specialist activity apply to competing specialists.

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[1] However, this charge applies where an order, after being delivered to the Exchange by the PACE system is executed by the specialist by way of an outbound commitment, when such outbound ITS commitment reflects the PACE order's clearing information, but does not apply where a PACE trade was executed against an inbound ITS commitment.

[2] *This charge does not apply to transactions in Nasdaq-100 Index Tracking Stock℠ and SPDRs.*

[2]*3* Applies to each member who derives at least 80% of gross income generated from Phlx floor based activities from his/her floor brokerage business conducted on the Exchange. Floor brokerage business conducted on the Exchange includes orders that are received on the Phlx, even if those orders are executed on an exchange other than the Phlx. The 5% floor brokerage assessment is waived until Dec 31, 2003 and is scheduled to be reinstated Jan 1, 2004.

[3]*4* This fee will only apply when the specialist sends an order received over PACE to ITS and receives an execution, if the specialist used the PACE customer's clearing information on the outbound ITS commitment.

[4]*5* This credit will include all inbound and outbound ITS executions, including both

counter (''OTC'') market maker, and permits such orders to be executed against in whole or in part; except that the term ECN shall not include: any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivation pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by on behalf of an OTC market-maker or exchange market-maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

[6] Standard & Poor's®, ''S&P 500®,'' ''Standard & Poor's 500®,'' and ''500'' are trademarks of The McGraw-Hill Companies, Inc., and have been licensed for use by the Phlx, in connection with the listing and trading of SPDRs, on the Phlx. These products are not sponsored, sold or endorsed by Standard & Poor's (''S&P''), a division of The McGraw-Hill Companies, Inc., and S&P makes no representation regarding the advisability of investing in SPDRs.

[7] These charges may include equity transaction charges, an equity floor brokerage assessment, an equity floor brokerage transaction fee, an off-Exchange trade information fee, an SEC fee, a remote information access fee, an Electronic Communications Network fee, an outbound Inter-Market Trading System (''ITS'') fee and a net inbound ITS credit. Additionally, the PACE Specialist charge does not apply because specialists are not eligible for further PACE volume discounts. *See* Securities Exchange Act No. 44259 (May 4, 2001), 66 FR 23962 (May 10, 2001) (SR–Phlx–200–41). The proposals also codifies that the PACE Specialist Charge does not apply to QQQ transactions. This charge has not previously applied to Nasdaq-100 Tracking Stock Index (''QQQ'') trades, as evidenced by the separate QQQ fee schedule. *See also* Securities Exchange Act Release No. 43776 (December 28, 2000), 66 FR 1166 (January 5, 2001) (SR–Phlx–2000–103). Nevertheless when adding a footnote that this charge does not apply to SPDRs, the Exchange determined, to avoid confusion, to refer to both products.

PACE and non-PACE and both proprietary and customer commitments.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt a license fee that will apply to trading SPDRs on the Exchange. The Exchange recently determined to begin trading SPDRs. The license fees should help off-set licensing fees payable to Standard & Poor's [8] associated with the trading of these products on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(4) of the Act,[10] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members. The Exchange believes that charging members that trade these products a licensing fee is an equitable means of recovering a portion of the licensing fees incurred by the Exchange.[11]

[8] *See supra* note 6.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] With regard to the distinction between Customer PACE and Non-PACE license fees, the Exchange states that it is consistent with its current practice to not impose customer charges for equity transactions delivered through PACE, but to impose customer charges for Non-PACE executions. *See, e.g.*, Securities Exchange Act Release Nos. 47385 (February 20, 2003), 68 FR 10295 (March 4, 2003) (SR–Phlx–2003–06); 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001) (SR–Phlx–2001–57); and 43776 (December 28, 2000), 66 FR 1166 (January 5, 2001) (SR–Phlx–00–103). Also, consistent with its current practice, the Exchange charges customer transaction fees and specialist transaction fees at different rates. *See, e.g.*, Securities Exchange Act Release Nos. 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001) (SR–Phlx–2001–57); 47109 (December 30, 2002), 68 FR 841 (January 7, 2003) (SR–Phlx–2002–78); and 42332 (January 12, 2000), 65 FR 3517 (January 21, 2000) (SR–Phlx–00–59).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–2003–17 and should be submitted by April 28, 2003.

[12] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8388 Filed 4–4–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs Public Meeting

The U.S. Small Business Administration (SBA) will hold a public Advisory Committee Meeting on Veterans Business Affairs on Tuesday, April 22, 2003, from 8:30 a.m. to 5 p.m. The meeting will be held at the U.S. Small Business Administration located at 409 3rd Street, SW., 2nd Floor in the Eisenhower Conference Room and will be open to the public from 9 a.m. to 3 p.m. The purpose of this meeting is to establish the structure of the Advisory Committee on Veterans Business Affairs and to carry out its mission in accordance with the Veterans Entrepreneurship and Small Business Development Act of 1999 (Public Law 106–50). Any member of the public seeking further information concerning the meeting or who wishes to submit oral or written comments, should contact Cheryl Clark in the Office of Veterans Business Development (OVBD) at the SBA located at 409 3rd Street SW., Washington, DC 20460 or fax at (202) 205–7292. Requests for oral comments must be in writing and be received no later than noon Eastern Time on Friday, April 11, 2003.

Candace H. Stoltz,

Director of Advisory Councils, Office of Communications.

[FR Doc. 03–8401 Filed 4–4–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4329]

Culturally Significant Objects Imported for Exhibition Determinations: ''Max Beckmann''

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

[14] 17 CFR 200.30–3(a)(12).

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 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibition, ''Max Beckmann,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, Long Island City, Queens, New York, from on or about June 26, 2003, to on or about September 29, 2003, 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 exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: March 31, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–8392 Filed 4–4–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4330]

Bureau of Democracy, Human Rights and Labor Call for Statements of Interest: Democracy, Human Rights, and the Rule of Law in the People's Republic of China

SUMMARY: The Office for the Promotion of Human Rights and Democracy of the Bureau of Democracy, Human Rights and Labor (DRL) announces a call for statements of interest from organizations interested in being invited to submit proposals for projects on promoting democracy, human rights and the rule of law in China. This is an initial solicitation to ascertain organizations that may be interested in doing projects in China and does not constitute a request for proposals. Organizations invited to submit proposals will have an opportunity to expand on their statements at a later date.

Statements of Interest

The Bureau of Democracy, Human Rights and Labor (DRL) invites organizations to submit statements of interest of no more than two pages outlining program concepts and capacity to manage projects that will foster democracy, human rights, freedom of information, judicial independence, criminal and civil rule of law, and civil society in the People's Republic of China. Statements should include the following information:

(1) Brief description of the organization;

(2) Project objectives, activities and the desired outcomes.

Recipients should not submit a budget at this time, but responses should indicate approximate project totals.

Additional Information

The Bureau's Human Rights and Democracy Fund (HRDF) supports innovative, cutting-edge programs which uphold democratic principles, support and strengthen democratic institutions, promote human rights, and build civil society in countries and regions of the world that are geo-strategically important to the U.S. HRDF funds projects that have an immediate impact but that have potential for continued funding beyond HRDF resources. HRDF projects must not duplicate or simply add to efforts by other entities.

DRL is interested in funding projects to begin no earlier than late summer 2003 and not to exceed two years in duration. Twelve-eighteen months programs will be the preferred award period. The bulk of project activities must take place in-country; U.S-based activities or exchange projects are not encouraged. Projects that draw on resources from greater China will be considered, but the majority of activities should address the PRC directly. Projects that have a strong academic or research focus will not be highly considered. DRL will not fund health, technology, environmental, or scientific projects unless they have an explicit democracy, human rights, or rule of law component. Projects that focus on commercial law or economic development will not be highly considered.

Pending availability of funds, approximately 8,500,000 is expected to be available under the Economic Support Funds through the Bureau's Human Rights and Democracy Fund (HRDF) for projects that address Bureau objectives in China. The Bureau anticipates making awards in amounts of $250,000–$1,000,000 to support program and administrative costs required to implement these programs.

Applicant/Organization Criteria

Organizations submitting statements should meet the following criteria:

- Be a U.S. public or private non-profit organization. For-profit organizations may submit statements of interest. Foreign organizations may be sub-recipients of U.S organizations or they may submit statements directly. Direct submissions should indicate the organization's ability to comply with U.S. government accounting and auditing standards.
- Have demonstrated experience administering successful projects in China or in similar challenging program environments.
- Have existing, or the capacity to develop, active partnerships with in-country organization(s).
- Organizations may form consortia and submit a combined statement of interest.

Review Process

The Bureau will acknowledge receipt of all submissions. Following a review of all submissions, organizations may be invited to submit full proposals. Invitations will be based on subjective evaluation of how the project meets the criteria outlined, United States foreign policy objectives, and priority needs of DRL.

Deadline and Submission Instructions

Applicants should submit statements of interest by overnight express courier services such as Federal Express or DHL, or by local courier service to: the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Room 7802, 2201 C Street, NW., Washington, DC 20520. Proposals delivered by local courier should be delivered to the ''Jogger's Entrance'' on 21st street between C and D streets. Due to slow mail processing within the Department of State, we do not recommend submitting proposals via the U.S. postal system. Faxed documents will not be accepted at any time. All submissions must be received at the Bureau of Democracy, Human Rights and Labor by 5 p.m. Eastern Standard Time (EST) on Wednesday, April 23, 2003.

FOR FURTHER INFORMATION CONTACT: The Office for the Promotion of Human Rights and Democracy of the Bureau of Democracy, Human Rights and Labor, DRL/PHD. Please specify Amy Gadsden, 202–647–2551, on all inquiries and correspondence.

Dated: April 1, 2003.

Lorne W. Craner,

Assistant Secretary for Democracy, Human Rights and Labor, Department of State.

[FR Doc. 03–8391 Filed 4–4–03; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Termination of Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Termination of Review of Joint Venture Agreements.

SUMMARY: On February 28, Delta Air Lines, Northwest Airlines, and Continental Airlines resubmitted their code-share and frequent-flyer program reciprocity agreements to the Department for review under 49 U.S.C. 41720. The implementation of these two agreements would constitute a key part of the three airlines' proposed alliance. In their resubmission, the airlines accepted three of the six conditions that the Department had stated were necessary to avoid a formal enforcement proceeding, and they proposed alternative language for the other three conditions. The Department has determined that the alternative language proposed by the airlines adequately addresses the competitive concerns relating to those three conditions. The Department is therefore terminating its current review of the agreements. In reaching this conclusion, the Department is relying on the terms of the agreements, the airlines' representations that they will compete independently on capacity and fares, and their formal acceptance of the six conditions as modified.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: On February 28, Delta, Northwest, and Continental (''the Alliance Carriers'') resubmitted their code-share and frequent-flyer program reciprocity agreements to us for review under 49 U.S.C. 41720. These agreements form essential elements of the airlines' proposed alliance, which will be a comprehensive marketing arrangement that will also include reciprocal access to airport lounges and some joint marketing. Their alliance agreement has a ten-year term. See 68 FR 3293, 3295, January 23, 2003.

The Alliance Carriers initially submitted the agreements on August 23, 2002. After an extensive investigation and analysis, we concluded that the agreements as presented raised serious competitive concerns. We stated that we would direct our Enforcement Office to begin a formal enforcement proceeding to determine whether the alliance would be unlawful unless the Alliance Carriers accepted six conditions that would address our competitive concerns. 68 FR 3293, January 23, 2003 (''the January Notice''). The Alliance Carriers at first refused to accept our conditions but thereafter consulted with us on possible modifications to the language of three of the conditions. On the basis of those consultations, they resubmitted their agreements on February 28, stated that they would accept three of our original six conditions, proposed alternative language for the other three conditions, and acknowledged our legal authority to impose conditions to prevent unfair methods of competition in the airline industry.

We invited interested persons to submit comments on the proposed alternative language. 68 FR 10770, March 6, 2003. We received public comments from JetBlue Airways; U.S. Airways; Galileo International, a computer reservations system; the Airports Council International-North America (''ACI''), which represents local, regional, and state governing bodies that own and operate the principal U.S. airports used by scheduled service airlines; the Massachusetts Port Authority (''Massport''), which operates Boston-Logan International Airport; the Montana Department of Transportation; the Memphis-Shelby County Airport Authority; and M. Michelle Buchecker. JetBlue, USAirways, Galileo, and Ms. Buchecker contend that we should not accept the alternative language. Massport asserts that we should require the Alliance Carriers to surrender different gates at Boston Logan. ACI expresses concern that we may, in the future, take steps that would interfere with the airports' right to manage their own affairs. The Montana state agency and the Memphis airport authority support the alternative language.

A group of airlines (''the Non-aligned Carriers'')—AirTran, America West, Frontier, JetBlue, Midwest, Southwest, and Spirit—filed joint comments that oppose the alternative language and requested confidential treatment for their filing.

After considering the Alliance Carriers' resubmission and the comments, we have determined that the alternative conditions adequately address our competitive concerns at this time. We are therefore ending our review of the agreements. The three airlines have agreed to our conditions with some modifications. We believe that these restrictions on their behavior should adequately reduce the possibility of anti-competitive behavior. Each airline has also represented that it will continue to compete independently on fares and service levels. Finally, the Alliance Carriers have separately agreed to abide by certain additional conditions imposed by the Department of Justice under its authority to enforce the antitrust laws.

We recognize that the implementation of the alliance could ultimately reduce competition in the airline industry, despite the conditions, although we do not expect such a result. We further recognize that the Alliance Carriers' actual implementation of the alliance may differ from their anticipated behavior. In addition, we are fully aware that world events and general economic conditions may lead to major changes in the airline industry, which could change the alliance's impact on airline competition. We will therefore closely monitor the Alliance Carriers' implementation of their agreements to ensure that they abide by their representations to us and comply with the conditions. Furthermore, in our on-going monitoring of industry conditions, we will be watchful for major changes in the level and type of competitive behavior in the airline industry. We have the statutory authority to undertake a new review of the competitive effects of the alliance at any time that we believe that such a review is warranted. We will not hesitate to initiate such a review if developments indicate that it is necessary.

Background

The statute requiring our review of the alliance agreements—49 U.S.C. 41720—requires certain kinds of joint venture agreements among major U.S. passenger airlines to be submitted to us at least 30 days before they are implemented. The statute does not expressly require the parties to obtain our approval before proceeding. We may extend the waiting period by 150 days with respect to a code-sharing agreement and by 60 days for other types of agreements. At the end of the waiting period (either the 30-day period or any extended period established by us), the parties may implement their agreement. To prohibit the parties from implementing an agreement, we would normally institute a formal enforcement proceeding under 49 U.S.C. 41712

(formerly section 411 of the Federal Aviation Act) to determine whether the agreement's implementation would be an unfair or deceptive practice or unfair method of competition. We apply section 41712 in light of the express direction of the statute that we consider the public policy factors set forth in 49 U.S.C. 40101. If we found that the agreement would violate section 41712, we could issue an order directing the parties to cease and desist from the practices found to be unlawful.

Last year we reviewed another alliance between major airlines, the United/US Airways alliance. We determined to end the waiting period for the United/US Airways agreements and take no action at that time to prevent the airlines from implementing the agreements. 67 FR 62846, October 8, 2002. The information then available to us was not sufficient to indicate that an enforcement proceeding under section 41712 would be warranted, although we expressed concern that the alliance could lead to a lessening of competition between the two airlines in some markets. We also noted, however, that United and U.S. Airways had accepted certain restrictions imposed by the Department of Justice under its authority to enforce the antitrust laws. We additionally noted the United/US Airways alliance could benefit a number of travelers and could increase competition in some markets, as long as United and U.S. Airways had strong incentives to continue to compete with each other.

On August 23, 2003, the Alliance Carriers submitted their code-share and frequent flyer program reciprocity agreements for our review under 49 U.S.C. 41720. The proposed alliance would add Delta to the existing alliance between Continental and Northwest. We invited the public to submit comments on the proposed agreements. To enable interested parties to submit more meaningful comments, we required the Alliance Carriers to make available unredacted copies of their alliance agreements. 67 FR 69804, November 19, 2002.

After reviewing the comments and other material and conducting an extensive informal investigation, we determined that the agreements, if implemented as presented by the three airlines, could result in significant adverse impacts on airline competition unless the airlines accepted six conditions developed by us to limit potential competitive harm. Our January Notice explained the basis for this determination. We stated that we would direct our Aviation Enforcement Office to institute a formal enforcement proceeding regarding the matter if the Alliance Carriers chose to implement the agreements without accepting those conditions.

We were aware that the Alliance Carriers represented that each of them would independently set its own fares and schedules and that they had structured their alliance so that each partner would continue to compete independently. Under that structure, the ticket price paid by a traveler would go to the operating airline, even if the passenger bought the ticket from a marketing airline. Since the marketing airline would not share in the ticket revenue, that airline would have an incentive to operate its own flights. In addition, they alleged that their agreements would not authorize any discussions prohibited by the antitrust laws. They would engage in discussions on subjects such as flight arrival times, gate locations, and certain other service features only in order to provide ''more seamless service.'' They asserted that their alliance would benefit consumers by providing on-line services to travelers in markets that now have no on-line service and improved access to frequent flyer programs and airport lounges. *See* 68 FR 3295.

As described more fully in the January Notice, we nonetheless had several concerns with the alliance's potential impact on airline competition. The alliance would create a potential for collusion among the three partners; it could enable the Alliance Carriers to take advantage of their combined dominant market presence in a number of cities in ways that could force unaffiliated airlines to exit the markets and deter entry by other airlines; it would establish joint marketing efforts that could reduce competition between the partners and preclude effective competition from unaffiliated airlines; it could lead to a ''hoarding'' of airport facilities; and it could result in ''screen clutter,'' causing the services of competing carriers to be downgraded in the displays offered to travel agents by computer reservations systems (''CRSs''). 68 FR 3295–3297. We developed six conditions in an attempt to address these concerns. The January Notice set forth the text of those conditions. 68 FR 3297–3299.

The Department of Justice, pursuant to its separate and independent authority to enforce the antitrust laws, reviewed the alliance agreements and determined that it would not challenge the implementation of the agreements under the antitrust laws if the Alliance Carriers accepted certain conditions, which the Department of Justice concluded were necessary to preserve competition among the carriers. The three airlines have accepted those conditions. Under those conditions, Delta, Continental, and Northwest will not code-share on local traffic on routes where more than one of them offers nonstop service, including their hub-to-hub routes (Atlanta-Detroit/Houston, for example). For purposes of this restriction, Newark Liberty International Airport, John F. Kennedy International Airport, and LaGuardia Airport are treated as one point. The bar against code-sharing, however, does not cover flights between Washington Reagan National, LaGuardia, and Boston Logan. The Alliance Carriers also agreed to conditions that bar certain pricing conduct that could provide a vehicle for price signaling and collusion. Accordingly, each party is limited in the extent to which it can set prices on flights operated by another airline.[1] Finally, each Alliance Carrier must continue to act independently in establishing the terms and conditions of its frequent flyer programs and in bidding on corporate contracts, although when consistent with the antitrust laws the Alliance Carriers may offer customers the option of a joint bid. These conditions are substantially the same as the conditions accepted last year by United and U.S. Airways and by Northwest and Continental when they began implementing their own alliance five years ago.

While the Alliance Carriers accepted the Department of Justice conditions, they initially stated that they would implement their alliance without accepting our conditions. Soon thereafter, however, they asked whether we would consider alternatives for three of our six conditions and postponed the implementation of their alliance. On the basis of consultations with us, they resubmitted the agreements for our review with their proposed alternative conditions on February 28. They stated that they accepted, without change, our first, fifth, and sixth conditions, which involve the alliance's steering committee, CRS displays, and the agreements' exclusivity provision. They

[1] Under the pricing condition required by the Department of Justice, the marketing carrier's fares must be the same as the operating carrier's fares on routes that are not served by the marketing airline (the marketing airline is the airline that does not operate the flight but nonetheless sells seats under its code). On routes served by two or more of the partners with connecting service, when one airline is the marketing airline it must sell seats on flights operated by the partner airline for the same fares it charges for its own flights or for the fares established by the operating airline. On routes where one airline offers nonstop service and the other airline offers connecting service, the latter airline's fares for the nonstop service must be the same as the operating carrier's fares.

requested changes in the second, third, and fourth conditions, which involve airport facilities, limits on code-sharing flights, and joint marketing. They requested that we complete our review within 30 days. They acknowledged our legal authority under section 41712 to impose conditions, but asserted that, in their view, neither our conditions nor the conditions required by the Department of Justice were necessary to protect competition.

We invited public comment on the Alliance Carriers' proposed alternative language. 68 FR 10770, March 6, 2003. Our notice set forth the proposed language. We directed the commenters to discuss only whether the Alliance Carriers' three new proposals would adequately address the competitive concerns regarding the three corresponding conditions, which we explained in our January Notice, and not whether the findings and analysis in the January Notice were adequate or reasonable. We stated that we would decide whether the Alliance Carriers' proposals were acceptable within 30 days. We noted that, if we determine that the alternative conditions adequately address our concerns, and the Alliance Carriers formally accept them along with the other three conditions developed by us, we would not now institute a formal enforcement proceeding to determine whether the airlines' agreements violate section 41712. However, we would retain our full statutory authority to continue to monitor the three airlines' implementation of their alliance, and to take enforcement action under section 41712 in the future if necessary. We reaffirmed our conclusion that, if the alliance were implemented as originally presented to us, it would raise serious competitive issues and we would begin a formal enforcement proceeding if the Alliance Carriers implemented the alliance without conditions satisfactory to us.

As noted, we received comments from the Non-aligned Carriers, JetBlue, U.S. Airways, Galileo, ACI, Massport, the Montana Department of Transportation, the Memphis-Shelby County Airport Authority, and M. Michelle Buchecker. This notice discusses the arguments presented by the public comments. Due to the Non-aligned Carriers' request that their comments remain confidential, this notice does not discuss their objections. We have nonetheless given careful consideration to the Non-aligned Carriers' arguments.

Decision

Congress has given this Department the responsibility to prevent unfair methods of competition in the airline industry through section 41712. Congress directed us, in interpreting and applying section 41712, to consider the factors set forth in section 40101. Our statutory authority is separate and independent from the Department of Justice's authority to enforce the antitrust laws. Section 41712 states that we should take enforcement action when we find that doing so is in the public interest, based on our consideration of the factors set forth in section 40101. After considering the comments, we have concluded that allowing the Alliance Carriers to go forward with their agreements, subject to the six conditions as modified, will best serve the public interest at this time. We presently believe that the six conditions, as modified with the alternative language, will adequately address our competitive concerns with the alliance. Therefore, at this time, we do not believe it necessary to institute a formal enforcement proceeding to determine whether the alliance will violate section 41712. We will therefore terminate our current review of the agreements under 49 U.S.C. 41720. As stated earlier, however, we will continue to monitor the alliance's implementation to see whether the Alliance Carriers' future conduct or changes in the airline industry's structure and competitive conditions raise competitive concerns requiring further review, including potential enforcement action under section 41712.

If the Alliance Carriers at any future time decide that they will no longer comply with the restrictions which they have agreed upon with us (which incorporate the restrictions they agreed upon with the Justice Department), they will have created a new agreement and must submit that new agreement to us under 49 U.S.C. 41720. Implementation of any such new agreement must be deferred until the end of the statutory waiting period. The same will be true if they materially modify the terms of the written agreements submitted to us for review on August 23. Under our established interpretation of 49 U.S.C. 41720, airlines that significantly modify a joint venture agreement must submit the modified agreement to us for review under that statute.

We do not agree with the commenters who have urged us to extend the waiting period under 49 U.S.C. 41720. They contend that we cannot now accurately assess the alliance's competitive impact when current world events such as war in Iraq and potential changes in the industry's structure may substantially change the alliance's potential impact on airline competition. While no one can predict with certainty what may happen, we do not believe that these events warrant a delay in the alliance's implementation. The conditions should mitigate the anti-competitive effects of the alliance, and we intend to monitor closely the alliance's effects on competition in light of future developments. We retain our full statutory authority to take enforcement action at any time if we have reason to believe that the alliance has a significant adverse impact on airline competition, and we will do so.

Similarly, we are not persuaded that it is necessary to delay the implementation of the alliance pending a review of Delta's new low-fare operation, Song. According to JetBlue's comments, Delta will launch Song this spring, and Song should be operating 36 aircraft by the end of the year. JetBlue asserts that Song is designed to ''attack'' low-fare competitors, implying that such an ''attack'' is not a legitimate response to consumer demands and industry competition. We do not believe it necessary to block the implementation of the alliance pending a more detailed investigation of Delta's plans for Song's operations or to exclude Song from the alliance until completion of further review. Rather, we will continue to assess the effects of the alliance in the light of actual experience. As a general matter, we have no reason to block Delta, or any other airline, from restructuring its operations to meet competitive challenges from other airlines and to satisfy consumer demands for lower fares. Incumbent airlines may legitimately respond to competitive actions by others, and Delta is entitled to compete fairly for a share of the Northeast-Florida market. While JetBlue fears that Song will engage in unlawful conduct, JetBlue Comments at 3–4, we cannot assume now that Delta will operate Song unlawfully. If, after Song begins operations, JetBlue were to present evidence to us indicating that Song may be engaged in unfair methods of competition, we would have full authority to consider that evidence under section 41712 and determine what action would be appropriate at that time.

In determining whether to end our review of the Alliance Carriers' agreements, we considered the commenters' arguments that we should require the Alliance Carriers to accept our original conditions without modification. As discussed below, however, we presently believe that the alternative language proposed by the Alliance Carriers may be sufficient to address our competitive concerns.

Again, if the conditions prove to be insufficient, adversely affected parties may complain to us, and we will have the power to take enforcement action at that time.

Airport Facilities. Our original condition on airport facilities would have required the Alliance Carriers to surrender gates at four of their hubs as a result of co-location and, if requested by the airport operator, to surrender additional gates at their hubs and Boston Logan that were used less than six turns each day. The alternative language still requires them to give up thirteen gates at four of their hubs, and requires Delta to give up thirteen additional gates at Boston Logan in 2005. However, rather than establish a usage standard that would govern the future conduct of these carriers alone, the alternative language would require the carriers to give up gates now at two congested airports, Boston Logan and LaGuardia. We believe that the alternative language should be sufficient. The requirement that the Alliance Carriers surrender specific gates now offers immediate benefits over our original proposal, which may have made gates available in the future if they were underused and were requested by the airport sponsor. It is unlikely that any gates ultimately surrendered under the original condition would have been desirable gates. We therefore are not persuaded that the alternative language should be rejected due to alleged defects in several of the gates to be surrendered. We have reviewed the adequacy of the gates at Boston Logan and LaGuardia. We understand that the gates are useable for many purposes, if not all, and will enable airlines to gain access to these two airports, where access has historically been difficult.

Massport, the airport sponsor of Boston Logan, states that it would prefer that Northwest give up two different gates, which could be used by wide-body aircraft, unlike the gates that Northwest has chosen to surrender. However, no carrier commenter has complained about the adequacy of those particular gates. Our principal concern in our review of the alliance has been its impact on domestic airline competition. The gates to be surrendered by Northwest should be adequate for the needs of most domestic airlines, since airlines operate wide-body aircraft on relatively few domestic routes.

ACI does not specifically support or oppose the alternative language for the gate access condition or our original gate condition. ACI instead expresses its dissatisfaction with the alleged efforts of this Department and the Federal Aviation Administration to interfere with the airports' asserted right to manage their facilities. ACI fears that we may interpret the condition as requiring an airport sponsor to relinquish its rights under leases with the Alliance Carriers. ACI's concern is unfounded. We are not requiring any airport to take action that would surrender its rights under its lease agreements. The condition requires gates to be surrendered only if requested by the airport sponsor, except for the gates that will be given up by Delta at Boston Logan upon its relocation to a new terminal. Presumably the airport sponsor will take into account its leasehold interests in determining whether to request the gates. Furthermore, giving an airport the opportunity to obtain gates that can be used by other airlines for new or expanded services should benefit the airport's customers and thus the airport sponsor.

Nonetheless, we do not accept ACI's implicit premise that airport sponsors should be able to manage their airports without regard for federal interests or their obligations under federal law. The airports used by the Alliance Carriers have received substantial grants from the FAA. As required by 49 U.S.C. 47107, the airports had to accept specific assurances in order to obtain those federal funds. Those assurances require among other things that the airport be available for public use on reasonable terms and conditions. 49 U.S.C. 47107(a)(1). Airports therefore have an obligation to make gates available for airlines that wish to begin service (or expand service) and are otherwise unable to obtain the facilities needed to operate those services. *See* FAA/OST Task Force Study, U.S. Department of Transportation, *Airport Business Practices and Their Impact on Airline Competition* (October 1999) at 13–26. We will continue to review airport facilities issues in connection with our review, under federal law, of airport competition plans, and will investigate complaints about ''hoarding'' of gates pursuant to our authority under section 41712.

ACI additionally asked us to clarify the alternative language's proviso that an Alliance Carrier need not surrender a gate ''if it will be required to continue to pay rentals, charges or any other lease obligations related thereto.'' ACI contends that we should explicitly state that this language does not exempt the airline's compliance with the lease obligations accruing before the surrender of the gates. ACI Comments at 5–6. However, ACI has misread the condition, which is only intended to define when an Alliance Carrier must surrender a gate, not to define the extent of its obligations under its lease with the airport sponsor.

Code-sharing Limitations. In an effort to ensure that the Alliance Carriers fulfilled their promises of consumer benefits due to new on-line service in many markets, we required that at least one-fourth of each marketing carrier's code-share flights must be to or from airports that the airline and its regional affiliates either did not directly serve or served with no more than three daily roundtrips as of August 2002. We also required that an additional thirty-five percent of the code-share flights must either meet that requirement or be to or from small hub and non-hub airports. The condition limited the total number of code-share flights between Delta and Continental and between Delta and Northwest to 2,600 (but does not affect the existing code-sharing between Continental and Northwest). We committed ourselves to reviewing these restrictions after the first year. We believed these restrictions were necessary to ensure that the Alliance Carriers implemented their representations that the alliance would provide consumer benefits by creating on-line service in a number of new markets. 68 FR 3298.

The alternative language allows the Alliance Carriers to code-share on an additional 2,600 flights in the second year, subject to the requirement that thirty percent of these additional code-share flights must be flights in new markets or to small hub or non-hub airports. If the Alliance Carriers wish to add additional code-share flights after the second year, they must give us 180 days advance notice and provide any information requested by us on the additional code-share services. 68 FR 10771.

We believe that the alternative language will continue to ensure that the Alliance Carriers use their code-sharing to extend their networks, as they publicly stated was their intent. As under our original condition, they may use a large share of their code-share flights for larger markets where they compete with other airlines. The alternative language will also establish an upper limit on the number of additional code-share flights in the second year of the alliance. While the Alliance Carriers may expand code-sharing to significantly more markets in the second year, we retain our statutory authority to review the competitive impact of any such expansion. If at any time, we believe the effects of the alliance are anti-competitive, we may

institute a proceeding under section 41712. In addition, the Alliance Carriers are required to give us 180 days notice before code-sharing on additional flights after the second year of their alliance. That will enable us to conduct a thorough review of the impact on competition of the first two years of the alliance, and of any proposed expansion of code-share operations, and to take action if necessary. Finally, the restrictions imposed separately by the Department of Justice will prevent the Alliance Carriers from code-sharing in markets where two or more of the partners offer nonstop service. Again, we will closely monitor the competitive impact of the Alliance Carriers' implementation of their code-sharing agreement and will consider whether additional limits should be placed on that activity.

Joint Marketing Restrictions. We have also determined to accept the Alliance Carriers' alternative language on joint marketing. Although it will give them greater ability to make joint offers to corporations and travel agencies than under our original condition, their ability to make joint offers will remain subject to substantial restrictions. In their agreement with the Justice Department, they acknowledge that they may not make joint offers where doing so would violate the antitrust laws. Our condition, with the Alliance Carriers' alternative language, gives each corporation and travel agency the right to request separate offers from each of the Alliance Carriers and allows the airline partners to make a joint bid only if the corporation or travel agency has made a written request for a joint offer. The Alliance Carriers may not make a joint bid for domestic travel, or for domestic travel linked with international travel, to a corporation or travel agency that has its headquarters or a principal place of business in specified cities where the Alliance Carriers' joint market share exceeds fifty percent, except that they may submit a joint bid to such a corporation or travel agency for travel originating from cities other than the principal place of business or headquarters city. No joint bid may make the discounted corporate fares or travel agency commissions dependent on the satisfaction of minimum booking requirements in specific domestic O&D markets offered by one partner, unless the corporation or travel agency has stated in writing that it desires such an offer in order to compare it with a competitive bid from one of the other seven largest carriers or from another airline alliance.

Some commenters suggest that the requirement of a written request from the corporation or travel agency may be ineffective, because the Alliance Carriers may put pressure on corporations and travel agencies to request a joint bid. *See, e.g.,* Galileo Comments at 2. However, we believe the requirement may still have its intended effect. Any such conduct by the Alliance Carriers would violate the condition, and potentially section 41712. We believe that there is a significant likelihood that some corporations and travel agencies subjected to unlawful pressure will report it to us, and we encourage them to do so. We would take very seriously any such reports. The requirement that any joint offer be preceded by a request from the corporation or travel agency should therefore be effective. As with the other conditions, however, we will monitor the effectiveness of the limitations on joint marketing and take further action if necessary.

One objection to the alternative language reflects a misunderstanding of its restrictions. As noted, the prohibition against joint bids to corporations or travel agencies that have their headquarters or a principal place of business in the cities listed in Exhibit A allows joint bids for travel originating from cities other than their principal place of business or headquarters city. Some commenters have assumed that this exception would allow the Alliance Carriers to make a joint bid for the return trips of a corporation's personnel located at the headquarters or principal place of business, even if the bid may not cover their outbound trips. Any such interpretation would be wrong. The Joint Carriers could not make a joint bid to a company headquartered in Atlanta for the travel of the headquarters personnel, but they could make a joint bid for travel originating at such a company's facility in California, assuming such a bid would comply with the antitrust laws. That bid, however, could only cover the travel of employees and contractors located at the California facility, not those located in Atlanta. The joint bid thus could not cover travel from California to Atlanta by personnel located in Atlanta. The Alliance Carriers accordingly cannot evade the restriction by treating trips by headquarters personnel from the field to headquarters as travel originating in another city, since the travel of such personnel originated in the headquarters city.

Conclusion

In sum, after thorough consideration of all comments, we are not persuaded that we should postpone the completion of our review of the agreements or that we should reject the alternative language. Subject to our conditions, the agreements should not unreasonably restrict each partner's incentives and ability to compete independently or be likely to result in collusion on fares or service levels. However, given our strong concern that the agreements not lead to unfair methods of competition, we intend to monitor their implementation closely. If and when the airlines' implementation of their joint venture appears to be having an adverse impact on competition, we will consider taking action under section 41712. Furthermore, as stated above, if at any point the Alliance Carriers decide that they will no longer comply with the restrictions to which they have agreed, they will have created a new agreement which must be submitted to us under 49 U.S.C. 41720 and whose implementation must be delayed until the end of a new waiting period.

Our review will be deemed terminated when we receive from the Alliance Carriers a signed written acceptance, in a form satisfactory to us, of the six conditions, including the proposed alternative language as discussed in this Notice.

Issued in Washington, DC on March 31, 2003.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–8288 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending March 28, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2003–14811.
Date Filed: March 26, 2003.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR 0506 dated 28 March 2003. Mail Vote 286—Resolution 010y TC2 Within Europe Special Passenger Amending Resolution from Italy to Europe. *Intended effective date:* 1 April 2003.

Docket Number: OST–2003–14816.
Date Filed: March 27, 2003.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR 0508 dated 28 March 2003. Mail Vote 289—Resolution 010b. TC2 Within Europe Special

Passenger Amending Resolution. from Croatia to Europe.

Intended effective date: 10 April 2003.

Docket Number: OST–2003–14817.

Date Filed: March 27, 2003.

Parties: Members of the International Air Transport Association.

Subject: PTC COMP 1020 dated 21 March 2003 Resolutions r1–r13. PTC COMP 1021 dated 21 March 2003 Resolutions r14r38.

PTC COMP 1023 dated 25 March 2003 Technical Correction. PTC COMP 1025 dated 28 March 2003 Technical Correction. PTC COMP 1026 dated 28 March 2003 Technical Correction. Minutes—PTC COMP 1022 dated 25 March 2003. *Intended effective date:* 15 April 2003.

Docket Number: OST–2003–14818.

Date Filed: March 27, 2003.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 278.

PTC12 NMS–AFR 0160 dated 14 March 2003. North Atlantic-Africa Resolutions r1–r20. Minutes—PTC12 NMS–AFR 0163 dated 21 March 2003. Tables—PTC12 NMS–AFR Fares 0081 dated 21 March 2003. *Intended effective date:* 1 May 2003.

Dorothy Y. Beard,

Chief, Docket Operations & Media Management, Federal Register Liaison.

[FR Doc. 03–8375 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–95–246]

North American Free Trade Agreement's Land Transportation Standards Subcommittee and Transportation Consultative Group: Plenary Session

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice announces the ninth joint plenary session of the North American Free Trade Agreement's (NAFTA) Land Transportation Standards Subcommittee (LTSS) and the Transportation Consultative Group (TCG) and other related meetings. As an adjunct to the plenary session, technical working groups that address specific standards-related areas will also meet. Representatives of non-governmental organizations (NGO) with an interest in land transportation issues may contact the chairpersons of LTSS or TCG working groups to which they wish to direct their comments, either in writing or in person. Only U.S., Canadian, and Mexican government officials may attend the plenary session.

Background

The Land Transportation Standards Subcommittee (LTSS) was established by the North American Free Trade Agreement's (NAFTA) Committee on Standards-Related Measures to examine the land transportation regulatory regimes in the United States, Canada, and Mexico, and to seek to make certain standards more compatible. The Transportation Consultative Group (TCG) was formed by the three countries' departments of transportation to address non-standards-related issues that affect cross-border movements among the countries, but that are not included in the NAFTA's LTSS work program (Annex 913.5.a–1).

Meetings and Deadlines: The ninth joint LTSS/TCG plenary session will be held May 28 and 29, 2003, at the Hyatt Riverwalk, San Antonio, Texas, USA. The following LTSS working groups are expected to meet during the same dates and at the same location: (1) Compliance and Driver and Vehicle Standards; (2) Vehicle Weights and Dimensions; and (3) Hazardous Materials Transportation Standards. The following TCG working groups also are expected to meet: (1) Cross-Border Operations and Facilitation; (2) Rail Safety and Economic Issues; (3) Science and Technology; and (4) Maritime and Ports Policy.

An opportunity will be provided for non-governmental organizations to address officials of the individual working groups regarding issues that concern them and that are within the purview of those working groups. Representatives of the truck, bus, and rail industries, transportation labor unions, brokers and shippers, chemical manufacturers, insurance industry, public safety advocates, and others who wish to take advantage of this opportunity are asked to contact the U.S. chairperson of the group they wish to address. Contact names, addresses and phone numbers are provided later in this notice. Copies of presentations, in English and Spanish, should be mailed to the working group chairs no later than May 14, 2003. This is an opportunity for presenters to voice their concerns, provide technical information, and offer suggestions relevant to achieving greater standards compatibility and improving cross-border trade. While written statements may be of any length, oral presentations will be limited based on the number of presenters to be accommodated. Working group chairs will determine the allowable length of any oral presentation and communicate that to the interested NGOs at least one week prior to the meeting dates. After May 14, statements may be submitted for the record and requests to present oral comments to the working groups will be accommodated only on a time-available basis.

Interested parties can make hotel reservations by telephoning the Hyatt Riverwalk at 1–800–233–6343 and identifying themselves as attendees to the NAFTA LTSS. This will ensure that attendees receive the meeting room rate. A block of guest rooms has been reserved at the hotel for the nights of May 27, 28 and 29 until April 20, 2003. After that the meeting rate cannot be guaranteed, nor the availability of guest rooms. A credit card is required to guarantee payment for all rooms.

A briefing to report on the outcome of the meetings will be conducted in room 3328 at DOT at the address below, on Wednesday, June 25, 2003, from 10 a.m. to 12 noon. Interested parties may notify DOT of their interest in attending this briefing by calling (202) 366–2892 by June 24.

SUPPLEMENTARY INFORMATION: LTSS-related documents, including past working group reports and statements received by DOT from industry associations, transportation labor unions, public safety advocates, and others are available for review in Docket No. OST–95–246, at the address below, Room PL–401, between 9 a.m. and 5 p.m., (EST) Monday through Friday, except national holidays. The Docket, which is updated periodically, may also be accessed electronically at *http://dms.dot.gov.* Information about the ninth plenary session can also be found on the DOT NAFTA Web site at *http://www.dot.gov/NAFTA.*

Address and Phone Numbers: Individuals and organizations interested in participating in working group sessions must send notice of their interest and copies of their presentations by May 14 to one or more of the following working group chairs:

LTSS Working Groups

Compliance and Driver and Vehicle Standards, Tom Kozlowski—(202–366–4049), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Vehicle Weights and Dimensions, Jim March—(202–366–9237), Federal Highway Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Hazardous Materials Transportation Standards, Bob Richard—(202–366–

0586), Research & Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

TCG Working Groups

Cross-Border Operations and Facilitation, Maria Lameiro (202–366–2892), Office of International Transportation & Trade, Office of the Secretary of Transportation, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Rail Safety and Economic Issues, Jane Bachner (202–493–6405), Federal Railroad Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Science and Technology, Rich Biter (202–366–5781), Office of the Secretary of Transportation, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Maritime and Ports Policy, Greg Hall (202–366–5773), Maritime Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

For additional information, call (202) 366–2892.

Dated: March 31, 2003.

Bernestine Allen,

Director, Office of International, Transportation and Trade.

[FR Doc. 03–8376 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DEPARTMENT OF THE INTERIOR

National Park Service

Membership in the National Parks Overflights Advisory Group

AGENCIES: National Park Service, Interior, and Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: By **Federal Register** notice published on February 12, 2003, the National Park Service (NPS) and the Federal Aviation Administration (FAA), asked interested persons to apply to fill a vacant position representing environmental interests on the National Parks Overflights Advisory Group (NPOAG). This notice informs the public of the person selected to fill that vacancy on the NPOAG. It also announces a change in representation of one member representing aviation interests on the NPOAG.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Executive Resource Staff, Western Pacific Region Headquarters, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov,* or Howie Thompson, Natural Sounds Program, National Park Service, 12795 W. Alameda Parkway, Denver, Colorado, 80225, telephone: (303) 969–2461; e-mail: *Howie_Thompson@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as *ex officio* members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Changes in Membership

To maintain the balanced representation of the group, the FAA and the NPS recently published a notice in the **Federal Register** asking interested persons to apply to fill a vacancy representing environmental interests on the NPOAG. The person selected to fill that position is Mr. Steve Bosak of the National Parks Conservation Association.

In addition, the Aircraft Owners and Pilots Association recently announced that Ms. Heidi Williams will replace Mr. Andy Cebula as a member of the NPOAG representing aviation interests.

Issued in Washington, DC, on April 1, 2003.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 03–8399 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

DATES: The ATSRAC will meet on April 24, 2003, from 8:30 a.m. to 5 p.m.

ADDRESSES: The Boeing Company, 1200 Wilson Blvd., Roslyn, Virginia.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces a meeting of the Aging Transport Systems Rulemaking Advisory Committee. The FAA will hold the meeting at the location listed under the **ADDRESSES** heading of this notice. The purpose of the meeting is to discuss the new tasks the FAA proposes to assign to the ATSRAC.

The meeting is open to the public; however, attendance will be limited by the size of the meeting room. The FAA will make the following services available if you request them by April 18, 2003:

- Teleconferencing
- Sign and oral interpretation
- A listening device

Individuals using the teleconferencing service and calling from outside the Washington, DC metropolitan area will be responsible for paying long-distance charges. To arrange for any of these services, contact the person listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee by providing 20 copies to the Committee's Executive Director or by bringing the copies to the meeting. Public statements will be considered if time allows.

Issued in Washington, DC, on March 31, 2003.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 03–8285 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lafourche and St. Charles Parishes, LA

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for a proposed road project (State Project Nol 700–92–0011 and Federal Aid Project No. NH–9201(501)) in Lafourche and St. Charles Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: William C. Farr, Programs Operations Manager, Federal Highway Administration, 5304 Flanders Drive, Sutie A, Baton Rouge, Louisiana 70808, Telephone: (225) 757–7615; Facsimile (225) 757–7601 or Vincent Russo, Environmental Engineer Administrator, Louisiana Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804, Telephone: (225) 248–4191; Facsimile: (225) 248–4188.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development (LaDOTD), will prepare an EIS on a proposal to upgrade a portion of U.S. Highway 90 (US 90) to full ''Control of Access'' highway meeting interstate standards. US 90 would become an extension of Interstate 49 (I–49). The project consists of the proposed I–49 extension from Raceland to the Davis Pond Diversion. The approximate distance of the project is 23 miles.

Proposed I–49 south is comprised of approximately 143 miles of US 90 from Lafayette to the Westbank Expressway in Jefferson Parish. This project is intended to provide traffic safety, a primary hurricane evacuation route serving 37% of Louisiana's population, access to nine airports and four of Louisiana's seven deep draft ports, and provide a vital link for economic development of the region.

Studies have been completed on the I–49 Connector (US 90/US 167) in Lafayette and studies are being completed oin the Lafayette Regional Airport to Route LA 88 and the Wax Lake Outlet to Berwick sections of I–49 South. This proposed EIS addresses the Raceland to Davis Pond section of I–49 South, herein after referred to as Section of Independent Utility (SIU) 1. More specifically, this project will involve preliminary environmental (including social environment) and engineering constraints studies, the development of concept line and grade alternatives, intitial impact evaluation, more detailed study of line and grade alternatives and environmental impact, the development of a draft EIS, a public hearing, preparation of a final EIS with complete, detailed environmental and line and grade studies, and a Record of Decision.

A Solicition of Views (SOV) letter will be submitted for distribution to representatives on the SOV mailing list. After mailing of the SOV, a scoping meeting will be held with LADOTD and interested agencies. A public meeting will be scheduled in both of the affected parishes to introduce the project and receive public comment after the initial scoping meeting with LaDOTD. There will be a total of three public meetings and one public hearing in each parish (Lafourche and St. Charles Parishes) throughout the NEPA process to present findings to the public and obtain public input. Additionally, small group informational meetings may be held at the request of commumity groups throughout the project.

Interested individuals, organizations, and public agencies are invited to attend the public meetings and participate in identifying any important environmental issues related to the proposed alternatives and suggesting alternatives which are more economical or which have less environmental effects while achieving similar transportation objectives.

To ensure that the full range of issues related to this proposed action is addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

The public will receive notices on location and time of future opportunities for participation at meetings and public hearings through newspaper advertisements and other means. If you wish to be placed on the mailing list to receive further information as the project develops, please contact Mr. William Farr with FHWA or Mr. Vincent Russo with LaDOTD at the addresses above.

In accordance with the regulations and guidance by the Council on Environmental Quality (CEQ), as well as 23 CFR part 450 and 23 policies; the EIS will include an evaluation of the social, economic, and environmental impacts of the alternatives. The EIS will comply with the requirements of the Clean Air Act Amendments of 1990 and with Executive Order 12898 on Environmental Justice. The EIS will meet the requirements of the U.S. Environmental Protection Agency's transportation conformity regulations (40 CFR part 93 and 23 CFR 450.322(b)(8)). After publication, the draft EIS will be available for public agency review and comment.

The Final EIS will consider the public and agency comments received during the public and agency circulation of the EIS and will identify the preferred alternative. Opportunity for additional public comment will be provided throughout all phases of the project development.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Dated: Issued on April 1, 2003.

William A. Sussmann,

Division Administrator, FHWA, Baton Rouge, Louisiana.

[FR Doc. 03–8330 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: St. Charles and Jefferson Parishes, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for proposed road project (State Project No. 700–92–0011 and Federal Aid Project No. NH–9201(501)) in St. Charles and Jefferson Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: William C. Farr, Program operation Manager, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70802, Telephone: (225) 757–7615; and Vince Russo, Environmental Engineer

Administrator, Louisiana Department of Transportation and Development, 5040 Florida Boulevard, Room 204A, POB 94245, Baton Rouge, Louisiana, 70804, Telephone: (225) 248–4190. Additional information may also be obtained at the I–49 Web site: *http://www.i49south.org.*

SUPPLEMENTARY INFORMATION: Pursuant to title 23, Code of Federal Regulations, part 771, Environmental Impact and Related Procedures, the FHWA, in cooperation with the Louisiana Department of Transportation and Development, will prepare an EIS in accordance with the National Environmental Policy Act (NEPA) on a proposal to improve U.S. Route 90 (U.S. 90) in St. Charles and Jefferson Parishes, Louisiana. The proposed improvement would involve an upgrade of the existing roadway to Federal Interstate Standards on existing alignment and/or new alignment and name the new facility Interstate 49 (I–49). The proposed project is between LA 306 to the west of the I–310 Interchange to the West Bank Expressway with a length of approximately 20 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand, and hurricane evacuation. Also, included in this proposal is a new improved interchange with Interstate Highway 310 (I–310) just west of Boutte, Louisiana. Alternatives under consideration include (1) taking no action (no-build); (2) improving the existing facility on existing alignment from a four-lane open access roadway to a full control of access roadway according to Federal Interstate Standards; and (3) improving the existing facility on existing alignment to the maximum extent practicable and on new alignment where required from a four-lane open to limited access roadway to a full control of access roadway according to Federal Interstate Standards, and (4) building a new full control of access four—lane roadway all on new alignment according to Federal Interstate Standards. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment along with various geometric concepts on the segment U.S. 90/I–49 between the Huey P. Long Bridge and the end of the project to the east.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of three (3) public meetings will be held in the project area in St. Charles and Jefferson Parishes in 2003 and early 2004. In addition, a Public Hearing will be held. Public notice will be given of the time and place of the meetings and the Hearing. The draft EIS will be available for public and agency review and comment prior to the Public Hearing. A formal scoping meeting is planned for April or May of 2003. Public notice will be given of the time and place of the scoping meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. Anyone wishing to be placed on the mailing list for future notices and announcements concerning this project may request so by writing the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on April 1, 2003.

William A. Sussmann,

Division Administrator, Baton Rouge, Louisiana.

[FR Doc. 03–8331 Filed 4–4–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 646]

Rail Rate Challenges in Small Cases

AGENCY: Surface Transportation Board, DOT.

ACTION: Amended notice of public hearing.

SUMMARY: The Surface Transportation Board (Board) is rescheduling the public hearing in this matter to April 22, 2003.[1] New dates for filing notices of intent to participate and for filing written testimony are established.

DATES: The public hearing will take place on Tuesday, April 22, 2003, at 10 a.m. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should indicate a requested time allotment, as soon as possible but no later than April 11, 2003. Each speaker should also file with the Board his/her written testimony by April 16, 2003.

ADDRESSES: The public hearing will take place in the 7th floor hearing room at the Board's offices in the Mercury Building, 1925 K Street, NW., Washington, DC. An original and 10 copies of all notices of intent to participate and testimony should refer to STB Ex Parte No. 646, and should be sent to: Surface Transportation Board, Attn: STB Ex Parte No. 646, 1925 K Street, NW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION, CONTACT: Beryl Gordon, (202) 565–1616. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877–8339.]

SUPPLEMENTARY INFORMATION: The public hearing in this matter is for the purpose of providing a forum for the expression of views and proposals by rail shippers, railroads, and other interested persons, regarding rail rate challenges in small cases to be considered by the Board. Decisions and notices of the Board, including this notice and the prior notice in this matter, are available on the Board's Web site at *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: April 1, 2003.

Vernon A. Williams,

Secretary.

[FR Doc. 03–8393 Filed 4–4–03; 8:45 am]

BILLING CODE 4915–00–P

[1] The hearing had originally been set for April 16, 2003.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8800

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8800, Application for Additional Extension of Time To File U.S. Return for a

Partnership, REMIC, or for Certain Trusts.

DATES: Written comments should be received on or before June 6, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Additional Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

OMB Number: 1545–1057.

Form Number: Form 8800.

Abstract: Form 8800 is used by partnerships, REMIC, and by certain trusts to request an additional extension of time (up to 3 months) to file Form 1065, Form 1041, or Form 1066. Form 8800 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and farms.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 11 min.

Estimated Total Annual Burden Hours: 3,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 31, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–8296 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–A, U.S. Corporation Short-Form Income Tax Return.

DATES: Written comments should be received on or before June 3, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Corporation Short-Form Income Tax Return.

OMB Number: 1545–0890.

Form Number: 1120–A.

Abstract: Form 1120–A is used by small corporations with less than $500,000 of income and assets to compute their taxable income and tax liability. The IRS uses Form 1120–A to determine whether these corporations have correctly computed their tax liability.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Responses: 262,446.

Estimated Time Per Respondent: 72 hours, 58 minutes.

Estimated Total Annual Burden Hours: 19,152,552.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 31, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–8297 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2106

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2106, Employee Business Expenses.

DATES: Written comments should be received on or before June 3, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet *CAROL.A.SAVAGE@irs.gov.,* Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employee Business Expenses.

OMB Number: 1545–0139.

Form Number: 2106.

Abstract: IRC section 62 allows employees to deduct their business expenses to the extent of reimbursement in computing adjusted gross income. Expenses in excess of reimbursements are allowed as an itemized deduction. Unreimbursed meals and entertainment are allowed to the extent of 50% of the expense. Form 2106 is used to compute these expenses.

Current Actions: Lines 22b and 22c are being deleted from part II of Form 2106 to comply with Revenue Procedure 99–38, which prescribes the new standard mileage rate of 32.5 cents per mile, effective 1/1/2000 for the entire year. This is a change from last year's form when there were two different rates during the year. This year there is one rate and taxpayers need only one line to make the computation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,567,188.

Estimated Time Per Respondent: 4 hr., 5 min.

Estimated Total Annual Burden Hours: 22,809,519.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 31, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–8298 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted.

DATES: The meeting will be held Friday, May 2, 2003, 8:30 a.m. to 6:30 p.m., and Saturday, May 3, 2003, 8:30 a.m. to 2 p.m. at the St. Gregory Hotel, 2003 M Street, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

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 Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Friday, May 2, 2003, 8:30 a.m. to 6:30 p.m., and Saturday, May 3, 2003, 8:30 a.m. to 2 p.m. in the St. Gregory Hotel, 2033 M Street, Washington, DC. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS 1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623.

The agenda will include the following: Mid-year assessment reports, discussion of various administrative issues, discussion and prioritization of issues elevated to Joint Committee, and discussion of next meeting.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–8291 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas and Tennessee)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Friday, April 25, 2003.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988)

that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Friday, April 25, 2003, from 11 a.m. e.s.t. to 12:30 p.m. e.s.t. via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, 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 Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–8292 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Wednesday, April 23, 2003.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

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 Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, April 23, 2003, from 12 noon EST to 1 pm E.S.T. via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, 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 Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979.

The agenda will include the following: IRS Notices.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–8293 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Monday, April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Anne Gruber at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Committee of the Taxpayer Advocacy Panel will be held Monday, April 21, 2003 from 2 pm PST to 4 pm PST via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider an oral or written statement, please call 1–888–912–1227 or 206–220–6096, or write Anne Gruber, TAP Office, 915 2nd Ave, M/S W406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Anne Gruber. Ms. Gruber can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–8294 Filed 4–4–03; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Monday,
April 7, 2003

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 533

Light Truck Average Fuel Economy Standards Model Years 2005–2007; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. 2002–11419; Notice 3]

RIN 2127–AI70

Light Truck Average Fuel Economy Standards Model Years 2005–2007

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule establishes corporate average fuel economy standards for light trucks. NHTSA is setting a standard of 21.0 miles per gallon (mpg) for model year (MY) 2005, 21.6 mpg for MY 2006, and 22.2 mpg for MY 2007.

DATES: Effective: May 5, 2003. If you wish to submit a petition for reconsideration of this rule, your petition must be received by May 22, 2003.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues, call Ken Katz, Lead Engineer, Fuel Economy Division, Office of Planning and Consumer Standards, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *kkatz@nhtsa.dot.gov*. For legal issues, call Otto Matheke or Nancy Bell, Office of the Chief Counsel, at (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Beginning in 1996, NHTSA was subject to a series of limitations on appropriations that prevented the agency from considering changes to the corporate average fuel economy (CAFE) levels established by statute at 27.5 mpg for passenger cars and by regulation at 20.7 mpg for non-passenger automobiles (light trucks). In July 2001, Secretary of Transportation Mineta asked Congress not to renew the appropriations rider restricting the agency's authority.

Congress enacted the Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Pub. L. 107–87) in December 2001 without the appropriations rider. Since that time, the agency has been actively engaged in collecting and analyzing data, establishing appropriate fuel economy standards, and considering ways to enhance the CAFE program within current statutory authority.

Because NHTSA is required by the CAFE statute to establish the CAFE standard for a model year not later than 18 months before its beginning, and thus had to establish the light truck standard for MY 2004 on or before April 1, 2002, the agency had to act quickly after December 2001 to set that standard. Due to the lack of opportunity to gather and analyze the data necessary to support a standard different from 20.7 mpg, the agency set the MY 2004 standard at 20.7 mpg. (67 FR 16052, April 4, 2002)

On February 7, 2002, the agency published a Request for Comments, seeking data relating to manufacturers' product plans for light trucks for MYs 2005–2010 and seeking comments relating to potential reforms to the CAFE program. (67 FR 5767) Having received and analyzed detailed data about manufacturers' product plans for MYs 2005–2007, the agency published a Notice of Proposed Rulemaking (NPRM) on December 16, 2002 proposing to establish the CAFE standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. (67 FR 77015)

NHTSA noted in the NPRM that, consistent with the recommendations of the National Academy of Sciences (NAS) in its report on the effectiveness and impacts of the CAFE standards, the agency intended to consider alternatives to the current structure of the CAFE program that would enhance long term fuel economy while protecting motor vehicle safety and American jobs, and to implement reforms consistent with our statutory authority for model years after MY 2007. We further noted our belief that advanced fuel saving technologies, such as hybrid electrics and advanced diesel vehicles, could substantially enhance the average fuel economy of the American light vehicle fleet as even more advanced technologies, such as fuel cells, are developed.

Since that time, both public and private initiatives have been announced. Earlier this year, President Bush proclaimed the government's support for the active research and development of commercially viable hydrogen-powered fuel cells for transportation and stationary power applications, and the infrastructure to support them. As the President indicated in his State of the Union address, successful execution of the Hydrogen Fuel Initiative would mean that the first car driven by a child born today could be powered by fuel cells, and pollution-free. The President's Hydrogen Fuel Initiative complements the FreedomCAR initiative, a partnership with the U.S. auto industry aimed at developing technologies needed for mass production of safe and affordable hydrogen fuel cell vehicles. Together, these initiatives will enable automobile manufacturers to decide to offer affordable and technologically viable hydrogen fuel cell vehicles in the mass consumer market by 2015 and the ability to produce and deliver such vehicles to the market by 2020.

The private sector is also responding to the nation's need to develop energy independence. On January 6, 2003, General Motors announced that it would offer an optional hybrid powertrain on several of its most popular models, including light trucks. While pointing out that its plans involve ''relatively low volumes,'' General Motors also stated that its initiative would make it ''well

positioned to meet market demand as it develops.'' Similarly, Ford Motor Company will introduce an optional hybrid electric powertrain in its Escape Sport Utility Vehicle, beginning with MY 2004. As Ford explained:

> While a few automakers have introduced small, low-volume hybrid-electric cars, Ford is introducing its first HEV on a family-sized sport utility to increase mass customer appeal. The hybrid-electric powertrain also has been developed with additional applications and vehicles in mind to expand the potential impact of the environmentally responsible technology.

DaimlerChrysler will introduce an optional diesel engine in the Jeep Liberty Sport Utility Vehicle, also beginning with MY 2004. The company claimed in December 2002 that American consumers could help reduce oil use by about 800 million gallons annually if they chose to purchase clean diesel engines at the same rate as Europeans. According to DaimlerChrysler: ''Today's modern diesel vehicles should be part of the solution to improving fuel efficiency and reducing carbon dioxide emissions. Diesels lead to up to 30 percent improvement in fuel economy, while reducing carbon dioxide emissions an average of 20 percent.''

The agency intends to address potential long-term enhancements to the fuel economy program through a separate rulemaking to be initiated this year. We will examine the best methods through which to redefine the distinctions between light trucks and passenger cars and the best basis on which to set CAFE standards. We will identify and seek comment on specific reforms aimed at enhancing fuel economy while protecting the safety of the American public and American jobs.

In the meanwhile, the agency must establish fuel economy standards for light trucks to address the current need to conserve energy within the bounds of technological feasibility and economic practicability, taking into account the effects of other Federal vehicle standards on fuel economy. Having analyzed the manufacturers' product plans and other available information, and considering the nation's need to conserve energy while seeking to protect the safety and jobs of the American public, we proposed light truck CAFE levels for MYs 2005–2007.

We received a significant amount of comment on the proposal, expressing a wide range of views. While some of those commenting charged that technology is available to set the standards higher, others argued that insufficient lead time and technological and market risks make it unlikely that the proposed standards would be attained. We have reviewed the comments and adjusted many aspects of the analyses to account for many of the points made. We have similarly reassessed the costs and benefits of the proposed standards.

After considering the foregoing, we are adopting the standards as proposed in the NPRM, having concluded that they constitute the maximum feasible level, taking into consideration the statutory criteria, for average light truck fuel economy standards for MYs 2005–2007. We have concluded that the standards are within the technological feasibility and economic practicability of the primary companies in the light truck market, and will enhance the ability of the nation to conserve fuel and reduce its dependence on foreign oil. We have concluded further that the standards established today present the overall best balance between the express statutory criteria.

II. Background

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–1974, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of title 49, United States Code. 49 U.S.C. 32901–32919.

Chapter 329 provides for the issuance of CAFE standards for passenger automobiles and for automobiles that are not passenger automobiles (light trucks). The CAFE standards set a minimum performance requirement in terms of an average number of miles a vehicle travels per gallon of gasoline or diesel fuel. Individual vehicles and models are not required to meet the mileage standard; rather, each manufacturer must achieve an average level of fuel economy for all specified vehicles manufactured in a given model year.

Section 32902(a) of Chapter 329 states that the Secretary of Transportation shall prescribe by regulation CAFE standards for light trucks for each model year.[1] That section requires that the CAFE standards for light trucks for a given model year be issued at least 18 months before the beginning of that model year. That section also states ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' Section 32092(f) directs the Secretary to consider four factors in determining the ''maximum feasible'' fuel economy level:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

The first light truck CAFE standards were established for MY 1979 and applied to light trucks with Gross Vehicle Weight Ratings (GVWR) up to 6000 pounds. Beginning with MY 1980, NHTSA raised this GVWR ceiling to 8500 pounds. For MYs 1979–1981, NHTSA established separate standards for two-wheel drive (2WD) and four-wheel drive (4WD) light trucks, without a ''combined'' standard blending the two together. Beginning with MY 1982, NHTSA established a combined standard, plus optional 2WD and 4WD standards. After MY 1991, NHTSA dropped the optional 2WD and 4WD standards. During MYs 1980–1995, NHTSA also required U.S. light truck manufacturers' ''captive imports'' to be separated from their other truck models in determining compliance with CAFE standards. The following table lists the ''combined'' standards established since MY 1982:

Model year	CAFE standard (mpg)
1982	17.5
1983	19.0
1984	20.0
1985	19.5
1986	20.0
1987	20.5
1988	20.5
1989	20.5
1990	20.0
1991	20.2
1992	20.2
1993	20.4
1994	20.5
1995	20.6
1996	20.7
1997	20.7
1998	20.7
1999	20.7
2000	20.7
2001	20.7
2002	20.7
2003	20.7
2004	20.7

In 1994, the agency departed from its usual past practice of considering light truck standards for one or two model years at a time and published an Advance Notice of Proposed

[1] The Secretary has delegated the authority to implement the automotive fuel economy program to the NHTSA Administrator. 49 CFR 1.50(f).

Rulemaking (ANPRM) in the **Federal Register** outlining NHTSA's intention to set standards for some, or all, of MYs 1998–2006. 59 FR 16324 (April 6, 1994).

On November 15, 1995, the Department of Transportation and Related Agencies Appropriations Act for FY 1996 was enacted. Pub. L. 104–50. Section 330 of that Act provided:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

Pursuant to that Act, we then issued an NPRM limited to MY 1998, proposing to set the light truck CAFE standard for that year at 20.7 mpg, the same level as the standard we had set for MY 1997. 61 FR 145 (January 3, 1996). We adopted this 20.7 mpg-standard in a final rule issued on March 29, 1996. 61 FR 14680 (April 3, 1996).

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for FY 1997 was enacted. Pub. L. 104–205. Section 323 of that Act included the same limitation on appropriations regarding the CAFE standards contained in Section 330 of the FY 1996 Appropriations Act. The agency followed the same process as the prior year and established a MY 1999 light truck CAFE standard of 20.7 mpg, the same level as the standard that had been set for MYs 1997 and 1998.

Because the same limitation on the setting of CAFE standards was included in the Appropriations Acts for each of FYs 1998–2001, the agency followed that same procedure during those fiscal years and did not issue any NPRMs in the series of rulemakings we conducted to establish the light truck fuel economy standards for MYs 2000–2003. The agency concluded in those rulemakings, as it had when setting the MY 1999 standard, that the restrictions contained in the appropriations acts prevented the issuance of any standards other than the standard set for the prior model year. The agency also determined that issuing an NPRM was unnecessary and contrary to the public interest because there was no other course of action available to it.

The Department of Transportation and Related Agencies Appropriations Act for FY 2001 was enacted on October 23, 2000. Pub. L. 106–346. That is the appropriations act under which we issued the light truck CAFE standard for MY 2003. While Section 320 of that Act contained a restriction on CAFE rulemaking identical to that contained in prior appropriation acts, the conference committee report for that Act directed that NHTSA fund a study by NAS to evaluate the effectiveness and impacts of CAFE standards (H.R. Conf. Rep. No. 106–940, at 117–118).

NAS submitted its report to the Department of Transportation on July 30, 2001. The final report was released in January 2002. The report concludes that technologies exist that could significantly increase passenger car and light truck fuel economy within 15 years. However, their development cycles as well as future economic, regulatory, safety and consumer preferences will influence the extent to which these technologies appear in the U.S. market.

All but two members of the NAS committee that authored the report said, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' (NAS, p. 29). Specifically, they noted: ''the downweighting and downsizing that occurred in the late 1970s and early 1980s, some of which was due to CAFE standards, probably resulted in an additional 1300 to 2600 traffic fatalities in 1993.'' (NAS, pp. 3 and 111.)

The NAS found that, to minimize financial impacts on manufacturers, and on their suppliers, employees, and consumers, sufficient lead-time (consistent with normal product life cycles) should be given when considering increases in CAFE standards. The report stated that there are advanced technologies that could be employed, without negatively affecting the automobile industry, if sufficient lead-time were provided to the manufacturers. In the NAS' view, the selection of future fuel economy standards will require uncertain and difficult trade-offs among environmental benefits, vehicle safety, cost, energy independence, and consumer preferences. It also suggests that consideration be given to changing the CAFE regulatory program to one based on vehicle attributes, such as weight, and that allowing ''credit trading'' could eliminate the current CAFE program's encouragement of downweighting or the production and sale of more small cars, and also reduce costs. (NAS, pp. 5, 113) Recognizing the many trade-offs that must be considered in setting fuel economy standards, the NAS committee took no position on what CAFE standards would be appropriate for future years.

In a letter dated July 10, 2001, Secretary of Transportation Mineta asked the House and Senate Appropriations Committees to lift the restriction on the agency's spending funds for the purposes of improving CAFE standards. The Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Pub. L. 107–87), which was enacted on December 18, 2001, did not contain a provision restricting the Secretary's authority to prescribe fuel economy standards.

When issuing our January 2002 proposal to establish the MY 2004 standard at 20.7 mpg (67 FR 3470), we noted that our newly regained ability to spend funds did not immediately enable us to conduct the level of analysis needed to set different fuel economy standards.[2] Although a number of commenters reacted to this proposal by advocating a higher MY 2004 standard, the agency determined, based on the limited information available to the agency for analyzing the manufacturers' product plans and on the lack of lead time to change those plans significantly, to set the MY 2004 standard at 20.7 mpg (67 FR 16052, April 4, 2002).

On February 7, 2002, we issued a Request for Comments (RFC) (67 FR 5767) seeking data on which we could base our analysis of appropriate CAFE standards for light trucks for upcoming model years, beginning with MY 2005. We also sought comments on possible reforms to the CAFE program, as it applies to both passenger cars and light trucks, to protect passenger safety, advance fuel-efficient technologies, and obtain the benefits of market-based approaches. In the same month, Secretary Mineta asked Congress ''to provide the Department of Transportation with the necessary authority to reform the CAFE program, guided by the NAS report's suggestions.''

While we are limited today in setting CAFE standards for the relative short term and within the constraints of the current CAFE statute, we will continue to support and encourage the development of advanced vehicle technologies capable of substantial fuel economy improvements and a market

[2] To prepare to establish any fuel economy standard, the agency must collect information relating to prospective CAFE levels, analyze and weigh the information in light of the statutory criteria for determining the ''maximum feasible'' average fuel economy level, and incorporate this information and analysis into a rulemaking action to set the standard, with opportunity for notice and comment. As NHTSA was unable to spend any funds by virtue of Section 320 of the FY 2001 Appropriations Act and the predecessor restrictions in earlier Appropriations Acts, it was not able to prepare the factual or analytical foundation necessary for rulemaking to establish CAFE standards at new levels from September 1995 to December 2001.

structure to support them through efforts like the President's proposed research initiative to aid in developing clean, hydrogen-powered automobiles, targeted research dollars and consumer tax incentives. Consistent with the recommendations of the NAS report, we intend to study programmatic CAFE alternatives and to implement those reforms within our statutory authority to allow for greater improvements in fuel economy safely in the years beyond those addressed in this final rule.

III. Summary of the NPRM

NHTSA proposed light truck CAFE standards for MYs 2005–2007 in an NPRM published on December 16, 2002 (66 FR 77015). This proposal sought to set a standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. These proposed standards represented NHTSA's tentative view of the maximum feasible fuel economy levels that could be achieved by light truck manufacturers in each of these model years.

The agency's proposal relied heavily on the NAS fuel economy report, confidential product plans submitted by some manufacturers, data maintained by NHTSA for other manufacturers, and responses to the agency's February 2002 RFC. NHTSA analyzed the information from these sources to develop an understanding of the availability, effectiveness and costs of technologies and other means to increase light truck fuel economy. The agency then proceeded to process these data, using two methodologies. One methodology, which has been labeled as the ''Stage'' analysis, primarily involved application of the agency's engineering judgment and expertise about possible adjustments to the detailed product plans submitted in response to the RFC by DaimlerChrysler, General Motors, and Ford. The Stage analysis was limited to these manufacturers because they were the only ones that provided the agency with detailed product plans for MYs 2005–2007. The other methodology, used by the Department's Volpe National Transportation Systems Center (Volpe Center) and labeled as the ''Volpe'' analysis, relied on the aforementioned product plans as well as data relating to manufacturers that had not submitted detailed information in response to the RFC.

The Stage and the Volpe analyses were both intended to provide reliable estimates of manufacturer capabilities. Stage I of the Stage analysis took existing product plans and applied technologies that manufacturers indicated would be available by MY 2005. Stage II applied more advanced transmission upgrades and engine improvements to planned model and engine changeovers.

The Volpe analysis considered product plans, but also used a technology application algorithm developed by Volpe Center staff. This algorithm systematically applied consistent cost and performance assumptions to the entire industry, as well as consistent assumptions regarding economic decision-making by manufacturers. Technologies were applied in order of cost-effectiveness. Use of this methodology led to projections that low-friction lubricants, engine accessory improvements, reductions in engine friction and rolling and aerodynamic resistance, cylinder deactivation, and transmission upgrades (5-speed, 6-speed, and automatically shifted manual transmissions) would account for most of the response to the proposed CAFE standards.

The NPRM explained that the Stage analysis provided the initial basis for the proposed CAFE standards, while the Volpe Center's technology application algorithm was used to estimate the overall economic impact of the proposal. The Volpe analysis covered the entire industry and assessed the economic impact of the proposal as measured in terms of increases in new vehicle prices on a manufacturer-wide, industry-wide, and average per-vehicle basis. Based on these estimates and corresponding estimates of the proposal's net economic and other benefits, the agency tentatively concluded that the proposal would be economically practicable and technologically feasible.

IV. Summary of Final Rule and Supporting Documents

The agency is adopting the light truck CAFE standards proposed in the NPRM: 21.0 mpg for MY 2005, 21.6 mpg for MY 2006, and 22.2 mpg for MY 2007. In establishing these standards, the agency has carefully considered all the comments submitted to the docket, but in particular those of motor vehicle manufacturers and of groups representing consumer and environmental interests. The agency has determined that these levels are the maximum feasible CAFE levels for light trucks for those model years, balancing the express statutory factors and, in particular, the impact of the standard on motor vehicle safety and American jobs. NHTSA estimates that the fuel economy increases required by the standards for MYs 2005–2007 will generate approximately 3.6 billion gallons of gasoline savings over the 25-year lifetime of the affected vehicles.

The agency has analyzed potential technological improvements to the product offerings for each manufacturer with a significant share of the light truck market. In response to the public comments, we updated both the Stage and the Volpe analyses, making numerous changes to our engineering and economic calculations and determinations to account for computational errors and other adjustments we found appropriate. The agency's projection of CAFE capability is based on the most recently submitted product plans and involves technological improvements we have determined to be appropriate and feasible within the time frame. We do not believe this final rule will necessitate, nor do we believe it will result in, any ''mix shifting,'' *e.g.,* changing from the planned production of heavier or larger vehicles to lighter or smaller vehicles, which might result in significant employment and/or weight reductions were it to occur.

Indeed, we sought public comment on the possibility or likelihood that manufacturers would comply with these new standards by reducing vehicle weight and, if so, any safety consequences of weight reduction. The manufacturers suggested that weight reduction is a possible compliance option, while falling short of predicting that they would in fact comply by reducing the mass of their vehicles in ways that may affect their overall crashworthiness. We believe that the final rule neither will necessitate nor result in reductions in vehicle weight that will impede the overall safety of the vehicle fleet traveling on the roads of America. Indeed, as the NAS report noted, there are many technological means available to manufacturers for improving fuel economy that are much more cost-effective than weight reduction. Accordingly, we did not rely on weight reduction.

We recognize that the standard established for MY 2007 is a substantial challenge for General Motors, especially in light of the updates to the product plans submitted with its comments on the NPRM. This is the first time since the issuance of MY 1983–1985 light truck standards in December 1980 that the agency has established light truck CAFE standards for more than two model years in the same final rule. We recognize that, between now and the last (MY 2007) of the model years for which standards are being established, there is more time than in previous light truck CAFE rulemakings for significant changes to occur in external factors

capable of affecting the achievable levels of CAFE. These external factors include fuel prices and the demand for vehicles with advanced fuel saving technologies, such as hybrid electric and advanced diesel vehicles. Changes in these factors could lead to higher or lower levels of CAFE, particularly in MY 2007.

Recognizing that the MY 2007 standard may have to be reexamined in light of any significant changes in those factors, the agency plans to monitor the compliance efforts of the manufacturers. To this end, the agency will examine the manufacturers' pre and mid-model year fuel economy reports filed with NHTSA through December 2004 and current market information, and consider the reasonableness of the efforts made by the manufacturers after this final rule to meet the MY 2007 standard. If appropriate, the agency could adjust the standard upward or downward. The CAFE standard for a model year can be increased at anytime before the 18-month period preceding that year, and decreased at anytime before the beginning of that year. Thus, the MY 2007 standard could be increased anytime before April 1, 2005 and decreased anytime before October 1, 2006.

The Final Economic Assessment (FEA) discusses in detail the fuel efficiency enhancing technologies expected to be available during MYs 2005–2007. Some of the technologies discussed in the FEA have been used for over a decade (*e.g.,* overhead camshafts, engine friction reduction, and low friction lubricants). Others have only recently been incorporated into passenger cars, (*e.g.,* 5-speed and 6-speed automatic transmissions and variable valve timing). Still others have been under development for a number of years, but have not been produced in quantity for an extended period (*e.g.,* cylinder deactivation, variable valve lift and timing, continuously variable transmission (CVT), integrated starter/generator, advanced diesels and hybrid drive-trains).

The FEA also details, and this preamble summarizes, the agency's analysis of the costs and benefits of these CAFE standards. The agency has estimated not only the anticipated costs that would have to be borne by General Motors, Ford and DaimlerChrysler and other light truck manufacturers to comply with the standards, but also the significance of the societal benefits anticipated to be achieved through direct and indirect fuel savings. We have concluded that these CAFE standards—while challenging—can be met in a cost beneficial way, and that they will benefit society considerably.

A final Environmental Assessment (EA) also accompanies this final rule. The agency has determined that the proposed action would not have a significant effect on the quality of the environment.

V. Maximum Feasible Fuel Economy Considerations

The CAFE statute sets forth the parameters within which the agency is required to establish corporate average fuel economy standards. Section 32902(a) provides that ''each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.''

As noted above, the agency is required to consider the factors in 49 U.S.C. 32902(f) when determining the ''maximum feasible'' CAFE standards for any given model year. These are technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy. Although the EPCA does not include motor vehicle safety as an express statutory factor, it does not preclude consideration of it. Accordingly, NHTSA should consider safety in accordance with its statutory responsibilities regarding safety and the Administration's emphasis on ensuring motor vehicle safety.

The agency has historically included consideration of numerous public policy concerns, whether considered as part of the enumerated factors or in addition to them. The courts have routinely affirmed the agency's authority to do this and have consistently upheld NHTSA's conclusions. *See, e.g., Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322 (CAS II) (D.C. Cir. 1986) (administrator's consideration of market demand as component of economic practicability found to be reasonable); *Public Citizen* v. *NHTSA,* 848 F.2d 256 (D.C. Cir.1988)(Congress established broad guidelines in the fuel economy statute; agency's decision to set lower standard was a reasonable accommodation of conflicting policies).

In particular, consideration of the impact of CAFE standards on motor vehicle and passenger safety has long been recognized as an integral part of the agency's process of examining the various considerations and determining maximum feasible average fuel economy. As the United States Court of Appeals pointed out in upholding NHTSA's exercise of judgment in setting the 1987–1989 passenger car standards, ''NHTSA has always examined the safety consequences of the CAFE standards in its overall consideration of relevant factors since its earliest rulemaking under the CAFE program.'' *See, Competitive Enterprise Institute* v. *NHTSA* (CEI I), 901 F.2d 107, 121 at n.11 (DC Cir. 1990).

As discussed in many past fuel economy notices, it is clear from the legislative history of EPCA that Congress intended NHTSA to take industry-wide considerations into account in determining the maximum feasible CAFE levels, and not necessarily base its determination on any particular company's asserted or projected abilities. This does not necessarily mean that CAFE standards will be set at the level asserted by the ''least capable manufacturer'' with a substantial share of the market. Instead, it means that we must take particular care in considering the statutory factors with regard to these manufacturers—weighing their asserted capabilities, product plans and economic conditions against agency projections of their capabilities, the need for the nation to conserve energy and the effect of other regulations (including motor vehicle safety and emissions regulations) and other public policy objectives.

This approach is consistent with the Conference Report on the legislation enacting the CAFE statute:

> Such determination [of maximum feasible average fuel economy level] should take industry-wide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer that might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist and the possible implications for the national economy and for reduced competition association [sic] with a severe strain on any manufacturer. * * *

S. Rep. No. 94–516, 94th Congress, 1st Sess. 154–155 (1975).

The agency has historically assessed whether a potential CAFE standard is economically practicable in terms of whether the standard is one ''within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry.'' *See, e.g., Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988). In essence, in determining the maximum feasible level of CAFE, the agency assesses what is

technologically feasible for manufacturers to achieve without leading to adverse economic consequences, such as a significant loss of jobs or the unreasonable elimination of consumer choice. The CAFE statute does not compel that fuel savings be gained at the expense of American jobs or competition within the motor vehicle market.

At the same time, the law does not preclude a CAFE standard that poses considerable challenges to any individual manufacturer. The Conference Report makes clear, and the case law affirms, ''(A) determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy.'' CEI–I, 793 F.2d 1322, 1352 (D.C. Cir. 1986). Instead, the agency is compelled ''to weigh the benefits to the nation of a higher fuel economy standard against the difficulties of individual automobile manufacturers.'' *Id.* The statute permits the imposition of reasonable, ''technology forcing'' challenges on any individual manufacturer, but does not contemplate standards that will result in ''severe'' economic hardship by forcing reductions in employment affecting the overall motor vehicle industry.[3]

The law permits CAFE standards exceeding the projected capability of any particular manufacturer as long as the standard is economically practicable for the industry as a whole. Thus, while a particular CAFE standard may pose difficulties for one manufacturer, it may also present opportunities for another. The CAFE program is not necessarily intended to maintain the competitive positioning of each particular company. Rather, it is intended to enhance fuel economy of the vehicle fleet on American roads, while protecting motor vehicle safety and the totality of American jobs and the overall United States economy. By the same token, maximum feasible fuel economy levels must be ones that account for the need to place technologies into mass production and cannot be based on claims of potential technologies that have not been shown to be feasible on such a production level.

The standards established in this final rule fall within our Stage analysis for each of the primary companies in the light truck market for MYs 2005 and 2006, and for all but one for MY 2007. Of those companies, the Stage analysis projects that the current product plans of both DaimlerChrysler and Ford for MY 2007 will produce a light truck CAFE of 22.2. The Volpe analysis, which looks more globally at the industry as a whole, further confirms the feasibility of a CAFE level of 22.2 mpg for MY 2007. Accordingly, while the standard for that model year is being set at a level above the Stage analysis' projection for one of the primary companies in the light truck market, we believe that industry wide considerations and the additional lead time provided confirm that the standard reflects the overall best balance of technological feasibility, economic practicability and the nation's need to conserve energy and reduce our dependence on foreign oil.

VI. Summary of Public Comments

NHTSA received over 65,000 individual submissions to the rulemaking docket from vehicle manufacturers and associations, environmental and consumer advocacy groups, members of Congress and individual citizens. The majority of the submissions were letters or emails provided to the public by various organizations and submitted by private citizens to the docket. Many contained supplementary thoughts from the individual senders.

The citizenry expressed both support for the proposal and concern that the proposed standards would not be sufficient to meet the nation's need to conserve energy in the short term or to protect natural resources and secure energy independence in the long term. Many of the individual submissions included a letter provided by the Natural Resources Defense Council describing the proposal as ''woefully inadequate'' and expressing concern that the proposal did not go far enough to help the country reduce our dependence on foreign oil. This letter also pointed out that the proposal was consistent with the preexisting plans of much of the automobile industry.

The Union of Concerned Scientists provided citizens with a form to fill out stating that ''I am disappointed because,'' with a space for individual comments. Other similar documents were also placed in the docket. Some expressed a belief that technology is available through which manufacturers could exceed the CAFE standards proposed. Many stated that the potential of war in the Middle East warrants more aggressive standards. Other individuals, using either forms or personally developed submissions, expressed support for the proposal. The Coalition for Vehicle Choice urged citizens to submit comments expressing support for the maintenance of consumer choice from amongst a broad array of vehicles.

Members of Congress also differed in their reaction to the proposal. Over 100 members of the House of Representative wrote to NHTSA urging the agency to increase the standards further, and stating that ''a much greater increase can and should be done to take advantage of the many existing technologies in automotive design that can increase fuel economy and reduce our nation's dangerous over-dependence on imported oil.'' These Congressmen also stated that ''it is now unarguable that the fuel efficiency of light trucks can be improved without sacrificing safety,'' and that automobile manufacturers have boasted of plans to incorporate hybrid electric vehicles in their fleets.

In contrast, the Chairman and Ranking Member of the Committee on Energy and Commerce in the House of Representatives wrote that the proposal was ''laudable,'' and was consistent with the fuel savings goal set forth in H.R. 4, which was adopted by the House of Representatives and the House-Senate conference committee in the last Congress. These members pointed out that while H.R. 4 passed the House of Representatives by a vote of 240 to 189 with a mandate for NHTSA to conduct a multi-year rulemaking resulting in a savings of five billion gallons of gasoline by the year 2010, an amendment statutorily to increase light truck standards ''was soundly defeated by a vote of 269 to 160.'' These members further point out that H.R. 4 would have codified NHTSA's practice of considering any adverse safety and employment impacts. The Chairman and Ranking Member concluded that the ''legislative summary of the consideration of H.R. 4, the 'SAFE Act of 2001,' should be instructive on the intent of Congress regarding the CAFE standards for light trucks.''

The Competitive Enterprise Institute and Consumer Alert argued that increased CAFE standards have the potential to adversely affect motor vehicle safety. The Mercatus Center and Randall Lutter and Troy Kravitz of the

[3] In the past, the agency has set CAFE standards above its estimate of the capabilities of a manufacturer with less than a substantial, but more than a de minimus, share of the market. See, *e.g., Center For Auto Safety* v. *National Highway Traffic Safety Administration,* 793 F.2d 1322, 1326 (D.C. Cir. 1986) (noting that the agency set the MY 1982 light truck standard at a level that might be above the capabilities of Chrysler, based on the conclusion that the energy benefits associated with the higher standard would outweigh the harm to Chrysler, and further noting that Chrysler had 10–15 percent market share while Ford had 35 percent market share). On other occasions, the agency reduced an established CAFE standard to address unanticipated market conditions that rendered the standard unreasonable and likely to lead to severe economic consequences. 49 FR 41250, 50 FR 40528, 53 FR 39275, *Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988).

AEI-Brookings Institute (Lutter and Kravitz) raised concerns relating to many of the analytic assumptions used in the PEA and discussed in the NPRM.

Environmental and consumer advocacy groups commenting on the proposal included Public Citizen, Center for Auto Safety, the Union of Concerned Scientists, the Natural Resource Defense Council, the Sierra Club, 20/20 Vision, U.S. Public Interest Research Group, Environmental Defense, the Alliance to Save Energy and the American Council for an Energy-Efficient Economy.

In general, these groups expressed dismay that the nature of the CAFE program, and its heavy reliance on the confidential technological, financial and product abilities of motor vehicle makers, preclude access to the data upon which much of the CAFE analysis is based. These groups contend that basing CAFE standards on the manufacturers' product plans unduly limits the agency to conducting passive rulemakings that neither force the companies to alter course nor advances the nation's longer-term energy needs. They also contend that technologies are available to manufacturers to enhance the fuel economy performance of their fleet. Many of these groups offered suggestions for the upcoming notice that the agency intends to publish seeking comment on potential reforms within current statutory authority.

Many automobile manufacturers and their trade associations also commented on the proposal. None took issue directly with the agency's decision to establish light truck CAFE standards over a period of model years. However, many took issue with specifics of the agency's analytic approach and particular assumptions built into both the technological and economic analyses used. The companies generally, but not universally, suggested that the proposed standards are challenging, but achievable. Most of the companies argued that the agency did not properly account for technological and market risks that could render the standards infeasible.

Of those who sell light trucks in the U.S. market, DaimlerChrysler, Ford and General Motors each have approximately 25 percent market share, and the remaining companies have the rest. DaimlerChrysler, whose projected CAFE levels were the highest of the three, did not take issue with any particulars in the agency's analysis of its capabilities. However, DaimlerChrysler raised concerns relating to the agency's general analytic approach and the company's view that the agency did not adequately consider the risk of deterioration in the projections. To account for that risk, DaimlerChrysler urged the agency to reduce its CAFE proposals to 20.9 mpg for MY 2005, 21.1 mpg for MY 2006 and 21.5 mpg for MY 2007.

Ford's comments indicated that the company viewed NHTSA's proposal as technologically challenging. Like DaimlerChrysler, Ford raised concerns with the agency's general analytic approach and argued that the agency had underestimated the lead time necessary to incorporate fuel economy improvements in vehicles, as well as the difficulties of introducing new technologies across a high volume fleet. Nonetheless, Ford indicated that it was committed to taking additional actions beyond those it already planned to achieve the ''difficult'' standards as proposed.

General Motors submitted the most extensive comments, challenging many of the agency's assumptions and arguing that the agency had overestimated that company's ability to achieve the proposed CAFE levels. General Motors pointed out computational errors and lead-time considerations that, it contended, render our proposal technologically infeasible and economically impracticable. We will discuss the various issues raised by General Motors and other manufacturers more fully below.

While the above discussion very briefly describes the comments submitted by the various interested parties, the following summary sets forth the comments by topic. In some cases, we have provided or summarized the agency's response in this section. In other cases, our response to the comments is embedded in the more detailed analysis of the technological and economic issues discussed later in this document.

A. Technological Comments

1. Relationship Between Technology Analyses

General Motors commented that the ''Stage'' and Volpe analyses consider different technologies. General Motors said that it believed that due to the differences in the two analyses, there was a substantial gap in the rulemaking record. General Motors also stated that NHTSA has neither presented the costs of the improvements that it used in the Stage analysis nor vouched for the feasibility of the technology applications used in the Volpe analysis.

2. Technology Application Algorithm Methodology

General Motors stated that Volpe's algorithm suffers from the following methodological limitations: (1) Application of technologies to all trucklines in a single model year, (2) the addition and subsequent removal of some technologies, (3) the application of aerodynamic drag reduction to only some versions of a given nameplate.

3. Lead Time

The Alliance of Automobile Manufacturers (Alliance), Ford Motor Company (Ford), and General Motors stated that NHTSA's analysis inadequately considered lead-time requirements for adding existing fuel technologies and for developing new technologies, and overestimated the number of vehicle models to which technologies could be added in a single model year. General Motors and Ford submitted confidential comments responding to the particular technological advances contemplated in the NPRM. General Motors, Ford, DaimlerChrysler and the Alliance expressed concern with the simultaneous application of some technologies to all of a given manufacturer's products and stated that technologies cannot be incorporated in every vehicle at the same time. General Motors and DaimlerChrysler further claimed that NHTSA paid little attention to product life cycles or the need for lead-time. The National Automobile Dealers Association (NADA) commented that any CAFE standard set too high might prematurely force technological changes, resulting in decreased vehicle performance, reliability, and/or marketability. Honda asserted that development lead-time is essential to enhancing fuel economy without degrading safety. Union of Concerned Scientists contended that automobile manufacturers could incorporate fuel-efficient technology into vehicles faster than assumed in the NHTSA analysis.

We have reviewed our analysis in light of these comments and, where appropriate, have incorporated additional lead time into the analysis by applying some technologies in MYs 2006 or 2007, rather than in MY 2005. The establishment of CAFE standards over a period of years allows us both to ensure that the standards are reasonably within the industry's projected capabilities without incurring adverse economic and safety consequences, and to encourage progress in technological advances to enhance fuel economy

performance during the later model years covered by the regulation.

4. Implementation Risks in Forecasted Technological Improvements

General Motors, Ford, DaimlerChrysler and the Alliance suggested that NHTSA must fully account for implementation risks in its forecast of technological improvements and that the proposed standards be lowered to account for the numerous technological and implementation risks that they may encounter. The Alliance stated that the following risks should be included: availability of technology options, cost of technology, level of technology applied, success of each new technology in meeting its targets, range of product offerings, overall economic climate, customer requirements for utility, size, performance, usage patterns, options, powertrains, and the level of new regulations in vehicle safety and emissions. The Alliance also stated that risks cannot be reduced by assuming that an increase in the popularity of crossover vehicles may limit the future sales of full size utility vehicles or that consumers will consider traction control and limited slip differentials as replacements for 4WD in vehicles. DaimlerChrysler stated that NHTSA's projections are based on the highest and riskiest levels of technology and may not be attainable.

General Motors provided specific estimates of suggested CAFE reductions to account for various risks, Ford suggested that NHTSA consider scenarios involving both high and low fuel economy estimates from each manufacturer, and DaimlerChrysler recommended reducing the standards to 20.9 mpg for MY 2005, 21.1 mpg for MY 2006 and 21.5 mpg for MY 2007. DaimlerChrysler stated that its current projected costs to improve fuel economy, taking into account the risks described in its submission to the RFC, are approximately four times higher than those projected by the agency in the NPRM. DaimlerChrysler provided no other analysis or data to support lowering the proposed CAFE standards.

The companies also asserted that their projected CAFE performance tends to be overly optimistic and must often be reduced in light of actual market demand. Public advocates were skeptical of those claims and countered that the industry's tendency to market less fuel efficient vehicles, in lieu of marketing more fuel efficient vehicles, contributes to any discrepancy between projected and actual CAFE performance.

As noted above, we have made adjustments in our technological analysis, where appropriate, to account for certain technology risks and included into our analysis additional lead time.

The agency has at times included in its assessment of maximum feasible a ''risk factor'' to account for unforeseen external factors that may render reasonable efforts to comply inadequate to meet the standards. This was done, for example, when establishing light truck CAFE standards for MY 1995 and reducing passenger car standards for MYs 1987–88. When faced with the necessity of lowering the statutorily established CAFE standard for passenger cars, the agency concluded that the risk that manufacturers would be forced to restrict product offerings to meet more challenging standards outweighed the risk that manufacturers could develop means to outperform the established CAFE level. The agency acted to adjust the passenger car standard just prior to the start of the 1987 model year and about a year before the advent of the 1988 model year, noting that as of that time the record showed that manufacturers had made good faith, but unsuccessful, compliance efforts.

We do not believe the same type of ''risk factor'' is appropriate to apply to this rulemaking. While we recognize that the standard set for MY 2007 is an aggressive one in light of General Motor's current product plans, we also believe that technological advancements, market acceptance of hybrids and modern diesels, and other external factors could alter General Motor's relative position. Unlike the situation in the late 1980s, which included a risk factor when no lead time was possible, there remains sufficient lead time for a manufacturer whose current product plan may not yet project compliance to develop product offerings to enhance their currently projected CAFE performance. In addition, unlike any time in the past, the market is beginning to include vehicles with advanced technologies including hybrid electric and advanced diesel engines that are more fuel-efficient and that do not adversely affect safety or American jobs.

Accordingly, unlike the situation presented to the agency in the late 1980s, current conditions and contingencies lead us to conclude that the potential harm of setting the light truck CAFE standard too low for MYs 2005–2007 outweighs the risk of setting it too high. As noted above, the agency intends to examine the manufacturers' pre and mid-model year fuel economy reports filed with NHTSA through December 2004 and current market information, and consider the reasonableness of the efforts made by the manufacturers after this final rule to meet the MY 2007 standard. If appropriate, the agency could adjust the standard upward or downward.

5. Use of Weight Reduction To Meet Proposed Standards

The Alliance, General Motors, Competitive Enterprise Institute, Insurance Institute for Highway Safety, and Lutter and Kravitz commented that manufacturers may reduce vehicle weight in response to the standards and that doing so would have negative safety implications. Competitive Enterprise Institute argued that the historical fact is that vehicle manufacturers tend to respond to CAFE standards by reducing the size of their fleets. Competitive Enterprise Institute also argued that higher CAFE standards would likely encourage sales of the smaller, less crashworthy SUVs at the expense of the larger, safest SUVs. In addition, that organization argued that higher CAFE standards would diminish the ongoing market trend toward larger, safer SUVs; that is, such standards would reduce or eliminate future upsizing. That organization stated that the agency's proposal fails to acknowledge or analyze these effects.

American Honda Motor Co., Inc. (Honda), Environmental Defense, Union of Concerned Scientists, American Council for an Energy-Efficient Economy, and Center for Auto Safety argued that weight reduction is an important fuel economy strategy that may not have negative net safety implications, if it were limited to the largest and heaviest light trucks. The Sierra Club disagreed with the assumption that weight and safety are always inversely related and with the NAS report's conclusions about the safety impact of the current standards. It also commented that safety is a function of design, not size. Similarly, Environmental Defense argued that the NAS report and agency studies treat weight as the only vehicle attribute affecting safety and do not account for size, crashworthiness, compatibility and the general quality of the vehicle structure and its safety features. That organization and Public Citizen further argued that agency studies are unable to distinguish between the effects of vehicle weight and vehicle size. Public Citizen argued that any safety problem associated with changes in the fleet of light vehicles was largely due to increases in the overall divergence in vehicle weight within the light vehicle fleet caused by the growth in the number of light trucks and to the rollover proneness of light trucks.

Finally, Public Citizen argued that any safety concerns associated with downweighting are irrelevant when the focus is exclusively on CAFE standards for light trucks instead of those for both passenger cars and light trucks.

We note that these comments reflect diverging views on the relationship between size and safety. Some commenters, such as CEI, embraced the proposition that increasing vehicle size always results in safety benefits. Others, such as Honda and Public Citizen, stated that they believe that other vehicle characteristics besides size have an impact on safety. For its part, Honda emphasized that vehicles can become lighter and still retain their size and ability to protect occupants. Public Citizen took the view that there are number of design characteristics that may impact the safety of light truck occupants and persons in other vehicles, including height and stability. Moreover, the organization indicated that fuel economy regulations having a potential to reduce or restrain the size of light trucks would have different safety impacts than those that might force changes in size to both cars and trucks.

As discussed below, while manufacturers point out that weight reduction is a compliance option, the CAFE standards established by this final rule can be met without the need to reduce vehicle weight and we do not believe that manufacturers will employ weight reduction to meet the standards.

6. NHTSA's Proposed Standards and Projected Manufacturer Capabilities

DaimlerChrysler, Ford, and General Motors commented that it would be difficult to comply with the proposed standards. Toyota agreed that it would be difficult for other companies to meet the standard. General Motors detailed what it views as flaws in the agency's analysis of its potential capability and also provided revised product plans exhibiting different CAFE values (higher for MYs 2005–2006 and lower for MY 2007) than those it previously submitted. Ford presented revised fleet projections that are lower than those contained in its response to the RFC and discussed technologies that the agency added to Ford's fleet which are not feasible.

Public interest groups, based on public announcements by Ford and General Motors about improving fuel economy of SUVs and introduction of hybrids, supported higher standards than those proposed. Environmental Defense, Union of Concerned Scientists and Public Citizen presented analyses arguing that technology permits NHTSA to set a higher standard. The American Council for an Energy-Efficient Economy and Cummins argued that NHTSA should take diesel technologies into account in this rulemaking. Toyota asserted that it has applied more fuel-efficient technologies, such as variable valve timing (VVT) and multi-valve cylinder heads, than most other manufacturers. It suggested that the proposed standards would encourage the entire industry to similarly apply the best available technologies.

We believe the standards established today are challenging enough to encourage the further development and implementation of fuel efficient technologies while also available enough within the applicable time frame to be economically practicable and feasible for the industry. As noted above, we have concluded that the standards set through this final rule represent the best overall balance of the statutory factors, and in addition are consistent with the protection of motor vehicle safety and American jobs.

7. Estimated Fuel Savings of Technologies

Environmental Defense, American Council for an Energy-Efficient Economy, and Union of Concerned Scientists stated that NHTSA underestimated the fuel savings of the technologies it considered. Environmental Defense argued that some technologies can be optimized for increasing fuel economy, performance or other features and that NHTSA's analysis should use higher values more reflective of optimization for fuel economy purposes. In related comments, Environmental Defense and Union of Concerned Scientists argued also that the agency should hold vehicle weight and performance constant in determining future fuel economy capability instead of assuming continued increases in both.

American Council for an Energy-Efficient Economy and Union of Concerned Scientists stated that the National Research Council (NRC/NAS) values should have been used without reduction. More specifically, Environmental Defense disagreed with the agency's estimated 1–2 percent fuel economy benefit for VVT and variable value lift and timing (VVLT) technologies and claimed that published estimates show that optimal application of VVLT technology provides a 10–12 percent fuel economy benefit. Environmental Defense also disagreed with the agency's 0.5 percent estimated benefit for automatic transmissions using aggressive shift logic, which, they state, shows fuel economy improvements of 9–12 percent using 6-speed transmissions. American Council for an Energy Efficient Economy argued that NHTSA's limited consideration of only the technologies available to the Big 3 undercuts its estimates of achievable fuel economy and that NHTSA should have used the cost and benefit numbers from the NAS report.

In the NPRM, the agency indicated that it did not expect manufacturers to deviate from existing plans for vehicle weight and performance in their efforts to comply with our proposal. At the same time, our NPRM contained, as Stage III of the Stage analysis, a projection that manufacturers could replace 6.0L and larger displacement engines with smaller displacement engines of similar design. Perhaps focusing more on the statement that NHTSA did not anticipate changes in weight and performance than on an analysis containing a cutback in engine sizes, some commenters stated that we failed to realize the fuel saving benefits that would have been realizable if determinations of future fuel economy capability had been premised upon limiting further increases in light truck mass and performance.

CAFE standards must be economically practicable and, as we have observed before, consumers will not buy what they do not want. Forcing through regulation substantial deviation from product offerings based on projected consumer demand incurs a risk of running afoul of economical practicability. At the same time, maximum feasible fuel economy standards should encourage the continuing development and use of more fuel-efficient technology. Current projections of consumer demand may not fully account for potential changes in consumer preferences that may accompany new entrants in the market, fluctuating fuel prices, and other factors that can affect actual CAFE performance. The agency therefore intends to monitor the compliance efforts of the manufacturers and to examine the manufacturers' pre and mid-model year fuel economy reports filed with NHTSA through December 2004 and current market information before the onset of MY 2007.

As indicated below, our analysis and projection of manufacturer capabilities now relies on more optimistic fuel economy gains for some technologies, including low viscosity lubricants and low rolling resistance tires, than those contained in the NPRM. These revised values place the estimated fuel saving benefits of these technologies in line with the estimates contained in the NAS report.

We do not agree, however, that either VVLT or improved shift logic will yield the benefits claimed by Environmental Defense. We note that the NAS panel was afforded an opportunity to review similar returns claimed for these technologies and did not, on an incremental basis similar to that used here by the agency, adopt the claimed values.[4] In regard to the technologies used, NHTSA believes that the lead time available restricts the agency from assuming that manufacturers will be able to rely on advanced technologies that are not yet proven or available for use.

8. Diesel Engines and HEVs

Automobile manufacturers and their associations commented that NHTSA's exclusion of advanced diesels and hybrid electric vehicles (HEVs) from the technology analysis was appropriate given the emissions and cost challenges facing advanced diesels and HEVs, respectively. Environmental organizations and another commenter expressed greater optimism regarding diesels for consideration in setting the CAFE standard. The American Council for an Energy-Efficient Economy commented that NHTSA's technology analysis was inadequate because it excluded HEVs and diesels. Cummins stated that its diesel engine development program demonstrates a fuel economy improvement of 50 percent-70 percent over gasoline engines. Cummins also stated that target engine availability is within the time frame proposed in the NPRM. The Alliance to Save Energy cited the Ford Escape HEV as surpassing most passenger cars in fuel economy and as providing support for the proposition that there is no technological reason for NHTSA not to require a significant increase in fuel economy standards for all light trucks.

As described above, since the publication of the NPRM both public and private initiatives have been announced. These include a government initiative to develop, over the longer term, viable hydrogen fuel cell powered transportation and General Motor's initiative to begin to offer optional hybrid propulsion systems in light trucks. In addition, Ford Motor Company and DaimlerChrysler will offer hybrid and modern diesel Sport Utility Vehicles beginning with MY 2004. We believe it possible that an active market for hybrid and modern diesel vehicles may significantly enhance the actual fuel economy of the light truck fleet by MY 2007. The infusion by these companies and others of advanced technology vehicles into that market is an important step towards that development.

Although we mentioned our support for the development of a market for the advanced diesels and hybrid electric vehicles in the NPRM, we did not incorporate them into the proposal because we did not have information on the extent of product offerings and marketing to generate public interest in them during MYs 2005–2007. For the final rule, we have incorporated hybrid and diesel vehicles incorporated into the manufacturers' product plans, but not beyond. We continue to note, however, that such vehicles may yet come to play an important role in the market by MY 2007.

B. Economic Comments

1. Cost of Specific Technologies

General Motors, Ford, the Alliance and Toyota Motor North America, Inc. (Toyota) argued that manufacturer incremental costs are understated. Ford and General Motors asserted that NHTSA's analysis underestimates the costs for applying certain technologies and thus underestimates its costs per fuel economy improvement for those technologies. General Motors claimed that part of NHTSA's underestimation occurs as the result of a clerical error because NHTSA did not use the technology costs identified in its rulemaking support documents, but instead used much lower costs.

General Motors also stated that the Volpe analysis assumes that all technologies will cost manufacturers the same amount for all models no matter how much progress has been made to date. General Motors stated that NHTSA's assumption that it can make improvements in these areas at the same rate and at the same costs to other manufacturers is incorrect. Public Citizen, Honda, and 20/20 Vision commented that fuel-efficient vehicles, *e.g.*, hybrids, could be manufactured for reasonable costs.

2. Projected Number of Sales

General Motors and other manufacturers argued that the sales rate used by NHTSA for new model year vehicles during the first several months of a model year was too high (4.167 percent vs. 3.125 percent) and that the agency mistakenly assumed that all vehicles of a given model year would be on the road and in use by January 1 of the calendar year following the start of that model year. General Motors commented that NHTSA's benefit model does not accurately reflect the number of new vehicles on the road during the initial calendar years in which they were sold. General Motors provided a number that reduced the total societal benefits for the three years by $62M.

3. Impact on Consumer Choice

General Motors asserted that some product restrictions might be necessary to achieve the proposed levels. The Recreational Vehicle Industry Association stated that reductions in size and towing capacity of light trucks resulting from proposed levels may restrict size, weight, and capacity offerings in trailers and conversion vehicles.

The agency tentatively concluded in the NPRM that the standards would not lead to product restrictions or impede consumer choice. We believe that the CAFE standards established today will not diminish the existing vibrant market for light trucks, offering the public a wide array of features and functions. We further believe that sufficient lead time exists before MY 2007 such that technologies not currently within manufacturers' product plans and/or the development of a market for alternative propulsion systems may significantly enhance fuel economy performance without affecting the features and functions offered to consumers.

4. Baseline of 20.7 MPG

The Alliance and Ford asserted that manufacturer incremental costs are understated because many manufacturers have already added significant costs in anticipation of the increased CAFE standards that are not included in the agency's incremental costs. The Alliance suggested that a more appropriate baseline would utilize data from the current model year assuming the manufacturers meet the 20.7 mpg CAFE standard absent technologies used in anticipation of future standards.

Public Citizen argued that the agency relied too heavily on the manufacturers for the baseline mpg level and for estimated mpg levels for future model years. The Alliance to Save Energy argued that the proposal should have considered the manufacturers' voluntary commitments to improve the fuel economy of their fleets (citing Ford's 2001 commitment to improve SUV fuel economy by 25 percent by 2005) and indicated that hybrid technology should have been weighted more in determining model year baselines.

[4] Committee on the Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards, National Research Council, Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards, Washington, DC, National Academy Press, 2002, p. 136.

For reasons discussed below, we have estimated the incremental costs associated either with increasing CAFE from an average fuel economy standard of 20.7 mpg, or from the manufacturer's baseline, if over 20.7 mpg, to the newly established standard. We have accounted for incremental benefits the same way, and thereby have treated the incremental costs and the incremental benefits in the same manner.

5. Survival Rates by Age of Vehicle; Vehicle Miles Traveled

The Alliance and Ford commented that the agency should recalculate costs using only a 25-year useful life, rather than a 30-year useful life. Ford stated that the assumed vehicle miles travel (VMT) growth rate of 1.8 percent is too high in comparison to recent experience and claimed that VMT instead has remained stable. Public interest groups criticized the agency for its use of a VMT baseline that they asserted was too low. Union of Concerned Scientists argued that NHTSA's estimate of VMT is low compared with other studies and underestimates the consumer benefits of fuel economy improvements. Union of Concerned Scientists cited survey data and stated that first year travel is over 15,000 miles and does not lower to 12,000 miles for several years.

The agency's analysis in the NPRM used a 25-year useful life. Data reflecting a previous assumption of a 30-year lifetime was inadvertently included in a spreadsheet placed in the docket, but these data were not used in the agency's calculations. We have decided to calculate VMT based on the Update of Fleet Characterization Data for Use in EPA's MOBILE6 program, EPA's most recent mobile source emission model.

6. Value of Externalities

Citing various studies, the Alliance and General Motors asserted that NHTSA should not include any monopsony or supply disruption externality in its benefit analysis. The Alliance argued that the agency failed to address other externalities associated with an increase in the CAFE standard, such as increased congestion and highway fatalities. The Mercatus Center commented that the link between energy security and fuel economy is not well known, but suggested that it is likely close to zero.

General Motors commented that increased travel resulting from the rebound effect would result in increased traffic crashes, injuries, and fatalities. Lutter and Kravitz commented that the economic analysis should include the external costs of increased accidents caused by additional driving due to the rebound effect and stated that estimates of marginal external accident costs range from 6 to 20 cents per vehicle mile.

The Alliance, General Motors, and Lutter and Kravitz commented that the agency's economic analysis should include the external costs of increased congestion caused by additional driving due to the rebound effect. Lutter and Kravitz stated that the economic analysis should use estimates of congestion costs ranging from at least 6 to 10 cents per vehicle-mile.

As discussed below, we have added costs attributable to increased congestion, noise and crashes resulting from the additional exposure associated with the rebound effect. We have also monetized the benefits associated with the time savings gained from the increase in the intervals between vehicle refuelings. We have otherwise determined that our values were consistent with the applicable literature.

7. Impact of Safety Standards on Vehicle Weight

Comments from the Alliance, General Motors, and Ford claimed that NHTSA did not consider and/or underestimated the impact of several proposed safety standards. General Motors argued that to meet future safety standards and to voluntarily implement new safety features, manufacturers might be forced to reduce vehicle weight elsewhere on the vehicle to comply with the proposed CAFE standard. As discussed below, we have considered these concerns but do not agree that companies will be forced to limit safety related systems to comply with these CAFE standards.

8. Rebound Effect

The Alliance, General Motors, and Ford urged the agency to use a value of 35 percent rather than 15 percent, with a sensitivity analysis of 20 percent to 50 percent. These commenters each based this recommendation on a recent survey article, Greening, Greene, and Difiglio (Energy Policy 28 (2000) 389–401) and on the agreement of participants in ''Car Talk,'' a Clinton Administration dialogue on fuel economy among the auto industry, environmental organizations, think tanks, and government organizations. DaimlerChrysler seemed also to recommend a value of about 35 percent, stating, ''the commonly accepted price elasticity of VMT is a negative 3.5 percent, which means that a 10 percent reduction in per mile vehicle fuel consumption actually only reduces fuel consumption by 7 percent.''

The American Council for an Energy-Efficient Economy stated that it believes that a 15 percent rebound factor might be too high, based on the agency's statement that increasing fuel economy by 10 percent will produce an estimated 8–9 percent reduction in fuel use. According to that organization, this implies an assumption that the rebound effect is between 1 percent and 12 percent.

In consideration of these comments, we have revised the estimate of the fuel economy rebound effect for light trucks used in this analysis from 15 percent to 20 percent. We recognize that the magnitude of the assumed rebound effect and the implications of any rebound effect are complex issues. NHTSA will continue to monitor relevant research for use in future CAFE rulemakings.

9. Present Value of Benefits (Including 7 Percent Discount Factor)

Both Lutter and Kravitz and the Mercatus Center argued for discount rates higher than 7 percent. Lutter and Kravitz stated that the agency should have used a rate ranging from 7.6–10 percent, the average new car finance rate during 1984–95. The Mercatus Center argued that the discount rate should be much higher (14 percent-28 percent), since fuel economy should be treated as an irreversible investment. For reasons discussed below, we have decided to use the proposed discount rate of 7 percent.

10. Impact of Higher Prices on Sales

General Motors commented that an increase in light truck prices, due to fuel economy initiatives, above competitive pricing levels would be met by a disproportionate loss in unit sales to its competition. Honda stated that most customers would be willing to pay a little extra to buy a car with higher fuel economy but would not trade fuel economy for desired features. Public Citizen and 20/20 Vision commented that surveys illustrate that consumers are willing to pay more for vehicles that have a higher fuel economy.

In response to comments, the agency has added to its analysis a discussion of impacts of higher prices of sales using a price elasticity of 1.0. The agency believes that higher light truck prices could shift some new vehicle sales from light trucks to automobiles and might also delay retirement and replacement of used vehicles. These issues are discussed more fully in the FEA.

11. Market Efficiency and Consumer Rationality

The Alliance and General Motors commented that NHTSA has consistently overestimated consumer

demand for increased fuel economy. They stated further that automobile buyers are rational and informed and that vehicle producers effectively respond to the extent of their preferences for fuel economy.

The Mercatus Center commented that NHTSA's analysis should include the foregone benefit to consumers from being unable to choose attributes they would prefer in a vehicle, *e.g.*, a 6.0L engine in instead of a 5.3L engine.

Lutter and Kravitz stated that NHTSA's analysis incorrectly assumes that consumers have inadequate information about vehicle fuel economy, and that they are unable to value correctly the future fuel savings resulting from improved fuel economy and as a consequence vehicle manufacturers supply inadequate levels of fuel economy. Public Citizen argued that there is no validity to the ''consumer choice'' argument made by manufacturers because vehicle offerings are driven, not by consumer choice, but by manufacturers' advertising.

Many commenters asserted that NHTSA had made a determination that there is a market failure in the provision of vehicle fuel efficiency. In the NPRM, the agency did not make any such determination. NHTSA noted a paradox that cost-saving technologies appeared to be penetrating the market to only a limited extent and therefore sought public comment on possible sources of market failure.

First, on the supply side of the vehicle market, it is well known that the light truck market is concentrated in three large producers who account for roughly 75 percent of market share, although there are a number of smaller producers that account for the remaining 25 percent. As several commenters noted, there is substantial evidence of competition among producers in the light truck market and indications that the three large producers are under increasing competition from the smaller producers. Under these circumstances, NHTSA maintains its previous statement that there is only a ''remote'' possibility that a supply side failure in the marketplace accounts for the limited market penetration of cost-saving, fuel-saving technologies.

Second, commenters discussed whether there could be a failure on the demand side of the market for fuel economy, rooted perhaps in the way that consumers perceive the private benefits of enhanced fuel economy and incorporate that information in their purchasing decisions. Several commenters noted that consumers are provided clear and substantial information about the fuel efficiency ratings of different vehicles, including information about the operating expenses associated with these fuel efficiency ratings. However, the argument for demand side failure may have less to do with the absence of consumer information about fuel efficiency than with the overall complexity of the vehicle-purchasing decision, the number of other factors of greater salience to consumers, the temporal aspects of ownership and resale, and the difficulty of weighing fuel efficiency differences against other (especially nonmonetary) attributes of vehicles. Rational consumers, cognizant of decision making costs, may use simplified decision rules when purchasing vehicles that give limited, diminished or no weight to fuel economy differences—at least when projected fuel prices are relatively low. The agency does not know whether this demand-side argument is true and did not receive much comment that supports or refutes it. The agency believes the plausibility of this argument is less remote than the supply-side argument but still quite speculative. Regardless of how consumers perceive fuel economy benefits when they make purchasing decisions, it is clear that consumers will experience the benefits of cost-saving technologies when they operate their vehicles—assuming the engineering-economics information underlying the NAS Report is accurate.

C. Environmental

1. Foreign/Domestic Refining Split

General Motors disputed the agency's assumption that 45 percent of the reduction in fuel will come from domestic refineries and 55 percent will come from imported finished gasoline. General Motors stated that it believes that a 2000 Energy Information Administration's (EIA) study is the source of this estimate and that the study merely states that 55 percent of U.S. petroleum needs are imported (in the form of crude and refined products) and that the other 45 percent are met from domestic sources. General Motors claimed that there is little evidence that these same proportions apply to reductions in fuel use and that U.S. refinery emissions are just as likely to remain the same as the baseline under the proposed standard and should not be credited against the rebound effect without substantiation. After considering a variety of data sources, we have decided to use a 50/50 split to account for reductions in refining.

2. Use of the GREET Model/Value of Emissions per Ton

General Motors stated that NHTSA's benefits model incorrectly used emission factors from the ''Greenhouse Gases and Regulated Emissions in Transportation'' (GREET) model for refinery emissions. According to General Motors, NHTSA incorrectly included extraction emission factors in its analysis. General Motors calculated a reduced total societal benefit for three years of $3,000,000 based on this error.

We agree with General Motors that we did not appropriately account for emissions reductions likely to result from gasoline savings. But we disagree with the contention that emissions attributable to petroleum extraction would be unaffected. Accordingly, we separated emission factors to account for different states in the petroleum cycle.

3. Greenhouse Gas Emissions for Carbon

Environmental Defense requested that NHTSA place a value on the benefit of avoided greenhouse gas emissions, while also noting: ''the magnitude of the global warming externality is admittedly difficult to estimate.'' The value of avoiding greenhouse gas emissions is not quantifiable at this time. However, our analysis in the Environmental Assessment indicates that the established standards will result in an estimated 9.4 million metric tons of avoided greenhouse gas emissions over the 25-year lifetime of the vehicles (measured in terms of carbon equivalents).

D. Additional Comments

1. Limited-Line Light Truck Manufacturers

Porsche AG, Porsche North America, Inc. (Porsche) urged NHTSA to establish a separate standard or standards for limited-line truck manufacturers, possibly using a graduated standard based on the number of light truck models offered. According to Porsche, smaller manufacturers are penalized because they do not sell small economy vehicles that are capable of producing offsetting credits.

Limited-line manufacturers, according to Porsche, must struggle to meet CAFE because of their limited resources and a limited truck line that does not allow them to average their fleet fuel economy. Therefore, if their vehicle line does not meet the current standard, they must pay penalties or incur disproportionate costs in attempting to meet the applicable standard.

With an annual worldwide production of more than 10,000

vehicles, Porsche agreed that it was foreclosed from applying for a manufacturer-specific fuel economy standard under the exemption provisions of 49 U.S.C. § 32902(d). However, Porsche argued that worldwide consolidation of the automobile industry indicates that the 10,000-vehicle threshold is no longer appropriate and should be raised. Barring any change to the threshold, which Porsche acknowledged is beyond NHTSA's authority, the company suggested that NHTSA is obligated to ensure that small limited-line manufacturers are not harmed. To fulfill this obligation, Porsche argued that the agency should follow an earlier precedent and establish a separate light truck standard for limited-line manufacturers as it did in 1980 and 1981.

The agency does not agree with Porsche's suggestion that the company's particular circumstances support establishment of a separate fuel economy standard for limited-line manufacturers. We note that both full-line and limited line manufacturers have indicated that their product mix places them at a disadvantage in complying with CAFE. For some, having too many large trucks is a problem. For others, like Porsche, not having other more fuel-efficient trucks is the obstacle. In either case, the challenge of meeting is difficult for both classes of manufacturers.

Porsche stated that it faces a disadvantage because it makes only a single high performance truck and has no ''legitimate'' opportunity to comply. Although some manufacturers have chosen to participate in market segments that make it easier for them to meet CAFE, we note that all manufacturers must meet particular challenges when complying with a standard. Porsche is correct in pointing out that NHTSA, in the very first years in which CAFE standards were in effect, established a separate light truck standard for light truck manufacturers who did not use passenger car engines in their trucks. This separate standard, promulgated in 1978, offered a degree of relief to International Harvester, a company struggling to meet both CAFE and emissions standards with limited resources.

NHTSA finds it difficult to equate Porsche's present position with that of International Harvester in 1978. Unlike International Harvester, which had been producing a family of larger light trucks whose basic design remained unchanged from the early 1960's, Porsche began the design process knowing that CAFE standards would apply to its product. Porsche presumably entered the light truck market after determining that the costs of compliance or paying penalties were offset by the benefits of doing so. While the increase in CAFE standards established by this final rule will require that Porsche increase its efforts to build more fuel efficient light trucks, the company cannot state that its designs pre-date CAFE, that an increase in CAFE standards was not foreseeable or that it is not technologically feasible for Porsche to meet the standards.

As indicated above, NHTSA does not believe that present market conditions dictate establishing a separate fuel economy standard for Porsche or other limited-line manufacturers. We are also not convinced by Porsche's argument that doing so would be consistent with Congressional intent. Porsche has correctly observed that NHTSA cannot modify the current statutory threshold for small manufacturers entitled to seek exemption from CAFE under 49 U.S.C. § 32902(d). However, Porsche apparently believes that the existence of the exemption provision supports the larger notion that limited-line manufacturers are entitled to relief. We believe that the more logical conclusion is that in creating the exemption provision and limiting its applicability, Congress intended to restrict rather than expand NHTSA's authority to exempt manufacturers from CAFE.

2. Executive Order 12866

General Motors and the Alliance also commented that neither the NPRM nor the Preliminary Economic Assessment (PEA) identified regulatory alternatives to raising CAFE standards for light trucks as required by Executive Order 12866, Regulatory Planning and Review. General Motors stated that, for example, raising the gas tax by 2.4 cents per gallon would achieve the same fuel savings associated with NHTSA's proposal and would be 50 times less costly than NHTSA's proposal.

NHTSA believes that the statutory structure and regulatory framework narrowly limit the regulatory alternatives that the agency can consider. The statute specifically requires NHTSA to establish the maximum feasible average fuel economy standard accounting for certain, specified considerations. Implicit in that analysis is consideration of the level at which the best balance of the statutory criteria can be achieved. We note that, unlike broader based empowering statutes, EPCA does not contemplate that the agency will address the nation's need to conserve energy through any alternatives other than the establishment of an average fuel economy standard applicable to a class or classes of non-passenger automobiles. We further note that, while General Motors points out that an increase in the gas tax may be a public policy alternative, it is not a regulatory alternative available under EPCA.

3. Confidential Business Information

Consumer and environmental advocacy groups expressed frustration that they do not have access to the same confidential technological, financial and product data as the agency, and therefore are limited in their ability to critique and comment upon the agency's analysis. Environmental Defense argued that NHTSA's authorizing legislation states that the agency may withhold information only if the Administrator finds that disclosure of information would cause ''significant competitive damage.''

NHTSA considers EPCA's reference to ''significant competitive damage'' as being substantively synonymous with Exemption 4 of the Freedom of Information Act. We acknowledge the frustrations expressed by the consumer and environmental advocacy groups that they do not have access to the same confidential technological, financial and product data as the agency, and therefore are limited in their ability to critique the agency's analysis. We note, however, that Congress entrusted the establishment of appropriate corporate average fuel economy standards—and, indeed, the balancing of the express statutory and public policy considerations—to the Secretary of Transportation, who has in turn delegated that responsibility to the expertise of the National Highway Traffic Safety Administration. In the NPRM we provided detailed descriptions of the methodologies employed in our engineering and economic analysis. In doing so, we ensured that sufficient information was available for all to comment on the approach and fundamental assumptions used to conduct the analyses leading to the proposal and, ultimately, to this final rule.

4. Small Business Impacts

The Recreational Vehicle Industry Association stated that the impacts of the required increases in light truck fuel economy on sales and production of trailers, other recreational vehicles that require towing, and conversion vehicles based on light trucks would be disproportionately or exclusively borne by small businesses.

NHTSA does not believe that this standard will have an adverse effect on

the recreational vehicle industry. The agency has determined that the average fuel economy standards established in this final rule will not significantly impact product offerings or the utility available to consumers.

5. Dual Fuel Credits

General Motors and the Alliance expressed concern that the agency had not yet finalized the proposed regulation extending the Alternative Motor Fuels Act of 1988 (AMFA) credits. They argued that, while NHTSA is not permitted to incorporate those credits into the CAFE standards (and thereby potentially eliminate the pure incentive Congress intended), the agency should consider the practical impact of the credits.

On March 11, 2002, the agency published a proposal to extend the dual fuel vehicle credits that vehicle manufacturers can earn by producing vehicles capable of operating on gasoline and other types of fuel. (67 FR 10873). Since then, both the Senate and the House of Representatives passed bills that would statutorily extend the credits. The extension was also included in the conference energy bill (H.R. 4) in the last Congress.

We will separately issue a final rule addressing the proposed extension of the AMFA credits. In the meanwhile, Congress has made clear that we may not take the existence or use of those credits into consideration when determining maximum feasible fuel economy levels. We have reviewed the legislative history surrounding the establishment of those credits to determine whether Congress would nonetheless expect the agency to acknowledge the existence of those credits when analyzing the costs and benefits associated with any proposed CAFE standard. We are skeptical that Congress would have expected the agency to assume technological costs, potential job losses or adverse safety consequences that, as a practical matter, are improbable in light of the AMFA credits. The legislative history, however, indicates that Congress expected these credits to be a pure incentive. Because consideration of costs and benefits is a critical component to determining the economic practicability of the proposed standard, we have concluded that the statute does not permit us to consider the impact of the AMFA credits when assessing the costs and benefits of proposed CAFE standards.

VII. Consideration of the Maximum Feasible Fuel Economy Levels

A. Technological Feasibility

1. General Motors

Our December 2002 NPRM estimated that General Motors would be able to achieve a light truck CAFE of 20.97 mpg in 2005, 21.63 mpg in 2006, and 22.29 mpg in 2007. This estimate was based on the ''Stage'' analysis described above. Use of the ''Stage'' analysis yielded the following potential improvements to the General Motors light truck fleet:

POTENTIAL GENERAL MOTORS CAFE IMPROVEMENTS, MPG [1]

Model year	Stage I improvements	Stage II improvements	Stage III improvements	Total	Potential CAFE, mpg.
2005	.439	.466	.1065	1.012	20.97
2006	.936	.502	.0616	1.500	21.63
2007	.921	.496	.0825	1.499	22.29

[1] Due to rounding, the individual improvements may not equal the potential CAFE for General Motors.

As we indicated in the NPRM, NHTSA relied, in part, on information provided by General Motors to determine which Stage I technologies General Motors could employ in MYs 2005–2007 to enhance its fuel economy performance. Our analysis indicated that General Motors could employ five technologies by MY 2005 in certain parts of its light truck fleet and an additional three technologies in certain parts of its light truck fleet by MY 2006. In NHTSA's view, all of these technologies would continue to be used in future model years. We also used the numbers provided by General Motors for percentage increases in fuel economy in calculating the possible fuel economy increase attributable to each of these technologies.

To determine how and when General Motors could employ Stage II technologies for MYs 2005–2007, NHTSA relied on General Motors' comments, the agency's own engineering judgment, and the submissions from other manufacturers. Our analysis indicated that General Motors could employ two technologies by MY 2005, and an additional technology by MY 2006. To determine possible fuel economy increases, NHTSA examined manufacturer-provided estimates for the percentage increases in fuel economy for each technology. We placed more credence on a value if a manufacturer had already introduced that specific technology, if it was in the NAS range of estimates, and if at least one other manufacturer provided a similar value for the fuel economy potential of that technology.

In the Stage III analysis for the NPRM, the agency tentatively concluded that the bulk of General Motors models equipped with the 6.0L engines could be equipped instead with 5.3L engines without notably degrading their utility. We determined that, standing alone, this change to General Motors' MYs 2005–2007 light truck fleet would increase General Motors' CAFE by 0.1 mpg.

As we indicated in our summary of the comments provided above, General Motors disagreed with NHTSA's projections and provided new and revised data to support its assertions. The company's February 2003 submission indicates that General Motors believes it can achieve a CAFE of 20.4 mpg in MYs 2005 and 2006, and 20.6 mpg in MY 2007.

General Motors pointed out clerical mistakes in the NPRM, such as double counting certain vehicles and technologies that were already being used by General Motors to meet the company's projected CAFE. General Motors stated that correcting for these clerical errors would lower NHTSA's assessment of General Motors CAFE by 0.08 mpg in MY 2005, 0.18 mpg in MY 2006, and 0.16 mpg in MY 2007. Additionally, General Motors argued that NHTSA's technological assessment is too optimistic about the degree to which General Motors can improve its CAFE, particularly since NHTSA made no allowance for deterioration or ''risk'' in its forecasts. General Motors also stated that NHTSA's projections of the company's capability to improve its CAFE ignored how little lead time General Motors had to implement changes to its MY 2005 trucks '' which would begin production in July 2004.

Compared to its May 2002 CAFE forecasts, General Motors' February 2003 CAFE forecasts are higher for MYs 2005 and 2006, but lower for MY 2007.

The updated forecasts involve several model changes, volume changes, and greater use of some of the technologies included in NHTSA's analyses. Based on these updated forecasts, General Motors provided its own computation of what General Motors' CAFE would be for MYs 2005–2007 if either the Stage or Volpe technologies were added to General Motors' updated product plans without any instances of double counting. These projections indicated that the Stage analysis projected General Motors' attaining a CAFE of 21.20 mpg in MY 2005, 21.65 mpg in MY 2006 and 21.75 mpg in MY 2007. Using the Volpe method, General Motors reported that its projected CAFE should be 21.12 mpg in MY 2005, 21.47 mpg in MY 2006 and 21.70 mpg in MY 2007.

The foregoing projections, according to General Motors, are still far too optimistic, even after the effects of double counting and other clerical errors are addressed. General Motors indicated that the agency's proposal included the use of technologies that could not be implemented in the time available, including some that were not yet ready for commercial application. In other instances, General Motors asserted that it had already exploited particular technologies to the extent possible. General Motors also indicated that both the ''Stage'' analysis and the Volpe analysis relied on projected improvements from certain technologies that were unrealistic.

Accordingly, General Motors submitted its own estimates of benefits from the application of the same technologies. In many instances, these estimates were lower than those used by NHTSA. The company also disagreed with NHTSA's view in the NPRM that the displacement reductions envisioned in NHTSA's Stage III analysis—replacing a larger engine with a smaller one in some vehicles—were a practical means of improving fuel economy. According to General Motors, requiring the replacement of one engine with another constituted more than a change in a single vehicle. Instead, the company argued that such a change was the equivalent of prohibiting production of an entire model line. General Motors concluded that NHTSA's proposed CAFE standards are neither technologically feasible nor economically practicable.

As it did for the NPRM, NHTSA used two methodologies to explore the potential for improvement in General Motors' fuel economy. One, the ''Stage'' analysis, examined the potential use of various technologies and other means after separating these methods into three different ''Stages'' and applying them to manufacturers in a designated sequence. The agency's ''Stage'' analysis, which is contained in the FEA that has been placed in the docket, corrected errors that General Motors had found in our earlier analysis.

As was the case with the ''Stage'' analysis performed in support of the NPRM, we based our choices as to which technologies to apply on our review of manufacturer product plans. In the case of General Motors, the agency re-examined many of our preliminary findings about which technologies could be applied to improve General Motors' fuel economy and revised its estimates. In so doing, we noted that General Motors' May 2002 submission, submitted in response to our February 7, 2002 request for comments, contained a number of references to technologies or returns on technologies that the company either abandoned or discounted in its February 14, 2003 submission. In some instances, our analysis was modified to reflect General Motors' February 2003 view of which measures could be employed. In others, we examined both the May 2002 and February 2003 General Motors submissions to see if opportunities existed to expand the use of technologies that appeared to be consistent with General Motors' product plans as depicted in both documents. We also considered improvements from technologies that had been adopted by other manufacturers. Our analysis projected that some of these technologies could be used to improve fuel economy if General Motors expended additional effort to implement some of these changes.

We further believe that, while there are technological and market risks associated with establishing a CAFE standard three model years beyond MY 2004, the last year for which a standard has been established, there is also the opportunity to incorporate further technological advancements to achieve the standard and beyond. We also believe that General Motors' projected CAFE capabilities may be further enhanced should consumers begin to demand more hybrid electric vehicles, diesel vehicles and cross-over utility vehicles and should General Motors expand its offerings in this arena to meet consumer demand.

NHTSA believes that it is technologically feasible for General Motors to meet the standards established in this final rule. We note that our updated ''Stage'' analysis responds to General Motors'' most recent comments and projections by adjusting the use, introduction, and application of fuel economy improvements to conform better to General Motors' currently planned deployment of technologies. The agency also reexamined the application of several technologies to ensure that they were applied to vehicles suitable for their use. In so doing, NHTSA examined the way in which these technologies were being used by the industry. Our analysis applies technologies that are either already in use or are sufficiently mature to have been included by other manufacturers in their MY 2005–2007 product plans.

Finally, our analysis did not rely on the use of clean diesel engines or the production of hybrids beyond those already planned by General Motors. However, the agency believes that the use of diesel engines and hybrid technology would enable General Motors to offset some of their anticipated risks of technical implementation and meet the new standard. Both of these technologies offer significant promise for increased fuel efficiency and one, if not both, could certainly be in place during MYs 2005–2007. Other external uncertainties, such as further technological development and fluctuating fuel prices that may affect consumer demand by MY 2007, could assist General Motors in achieving the standards established by this final rule.

General Motors' comments also took issue with the validity and execution of NHTSA's ''Volpe'' analysis. As indicated in the PEA prepared in conjunction with our December 2002 NPRM, NHTSA computed the potential costs of its proposal through an analysis developed by the Volpe National Transportation Systems Center. This analysis used an algorithm that applied fuel economy technologies to different model lines based on the cost-effectiveness of each technology. General Motors argued that the Volpe analysis contained a number of errors, including some clerical and mathematical errors.

The company also claimed that the Volpe analysis was illogical in the manner in which technologies were used and discarded without sufficient regard for capital costs. The analysis was also flawed, in General Motors' view, because the Volpe analysis applied different techniques for estimating costs than those employed in the Stage analysis to raise General Motors' fuel economy. Finally, General Motors also indicated that many of the technologies employed in the ''Volpe'' analysis were either not ready, did not deliver the fuel savings described or were, in many instances, not practicable for General Motors.

The agency agrees that the Volpe analysis prepared for the NPRM contained clerical errors and, in some instances, applied and removed technologies without consideration of capital costs. We have remedied the clerical errors in our earlier Volpe analysis, changed our application of technologies to reflect the impact of repaying capital investments and modified the analysis so that the Volpe cost estimates are more nearly based on the technologies, or their equivalents, used by NHTSA in its updated Stage analysis. We have also performed a more traditional analysis of General Motors' projected costs by calculating the total cost of all the projected ''Stage'' technologies. As we are also using the Volpe methodology to calculate costs for the industry, as well as for General Motors, the Volpe methodology was also changed to reflect that capital costs might require employment of technologies for several years, rather than a single year. As is the case with the Stage analysis, the Volpe analysis was also changed to apply technologies in a manner more consistent with General Motors' projections of its product plans and capabilities. In so doing, we also examined the abilities and plans of the industry as a whole in determining which technologies could reasonably be used. As indicated in our discussion regarding costs, we believe that the Volpe analysis provides an accurate accounting of the potential aggregate costs of this final rule.

After careful review of General Motors' comments, the agency modified its application of both the Stage analysis and the Volpe analysis. One Stage I technology was not applied as widely as it was in the NPRM. A Stage II technology that NHTSA had calculated could be widely introduced in MY 2005 is now being applied in phases in MYs 2006 and 2007. Technologies that were not used in our analysis for the NPRM are now being applied as Stage II technologies. Finally, in regard to Stage III, our analysis no longer relies on General Motors' removing the existing 6.0L engine from some trucks and replacing it with a smaller V–8. As stated above, the possibility that forcing through regulation substantial deviation from product offerings based on projected consumer demand may impose unreasonable constraints on the market leads us to conclude that it is not appropriate to include such engine shifts in the Stage analysis. Nonetheless, market forces may yet independently favor further reassessment of product plans for which there remains adequate lead time.

In addition to these changes in the technologies used and the way they were applied, we also changed our estimates of the improvements we expect to gain from certain technologies. In the case of low rolling resistance tires and low viscosity/low friction lubricants, the agency had previously estimated that these technologies would each yield a .5 percent improvement in fuel economy. In response to criticisms that our values were either too low or too high, we decided to use the NAS mid-range estimates (where available) since they were developed based on extensive study and review. Thus, we adopted a 1.3 percent improvement for low rolling resistance tires, which is the midpoint value projected by the NAS report.

In the case of low friction/low viscosity lubricants, we indicated in the PEA accompanying the CAFE NPRM that these lubricants could yield anywhere from a 0.3 percent to 1.0 percent improvement in fuel economy. However, our calculations for the NPRM relied on a 0.5 percent improvement from low friction/low viscosity lubricants. After consideration of the potential benefits of these lubricants, we now anticipate, as did the NAS, that use of these oils will yield a 1 percent improvement. In addition to changing the estimated returns for the preceding technologies, our analysis also reduced the percentage improvement related to improved cooling fans from 2.4 percent to 2.0 percent.

After correcting errors in our earlier analysis and making other changes as described above, our Stage analysis projects, based on General Motors' most recently submitted product plans, light truck CAFE estimates for that company of 20.96 mpg for MY 2005, 21.56 mpg for MY 2006 and 21.99 mpg for MY 2007. Unlike many previous CAFE rulemakings, we are establishing light truck standards for three consecutive model years. This provides, especially as regards the third model year, MY 2007, additional lead time for companies to develop compliance options not typically available when a standard is set just 18 months prior to a model year. We believe that, although General Motors' current product plans do not project that it will achieve a 22.2 mpg light truck CAFE without further adjustments, that the opportunity and technologies exist to make such adjustments technologically feasible and economically practicable for MY 2007. We note that, while Ford finds the standards ''challenging,'' that company stated that it would make just such adjustments to meet the standards.

Further, the Volpe analysis (while principally a tool to assess costs and benefits) suggests a projection of 22.2 mpg for MY 2007 for General Motors. Rather than address General Motors' product plans on a model-by-model basis, the Volpe analysis estimates the company's projected CAFE capabilities through application of technologies available to the industry as a whole. The Volpe analysis suggests that the Stage analysis may present a conservative projection for MY 2007, given the additional lead time provided for that model year.

Moreover, the CAFE statute does not contemplate that each standard automatically be set at the lowest projected level of the ''least capable manufacturer with a significant share of the market.'' Instead, it contemplates CAFE levels at the maximum level attainable within the industry as a whole without necessitating consequential adverse economic consequences. As noted above, this is the first time since 1980 that the agency has simultaneously established light truck standards for more than two model years. As a result, we believe it to be within the intent of the statute to set more challenging—but still reasonable—CAFE levels during the year(s) furthest in the future.

Indeed, the concept of the ''least capable manufacturer with a significant share of the market'' was intended to be a surrogate for analyzing whether employment reductions or other adverse economic consequences (including vehicle weight reductions) were necessary to meet the standards. While we have not pointed to particular measures based on current plans and projections that will bring General Motors' MY 2007 CAFE level to 22.2 mpg, that level may be achieved through additional technological improvements and the expansion of hybrid electric, diesel engine or cross-over utility vehicles in the marketplace. External market factors may also impact actual CAFE performance. As a result, we have determined that—for MY 2007, as well as MYs 2005 and 2006—the CAFE standards are technologically feasible, and economically practicable, for the industry as a whole despite being set at a level above the current projections for a company with a substantial share of the light truck market.

2. Ford

Our December 2002 NPRM estimated, based on examination of Ford's product plans and use of the Stage analysis, that Ford could improve its light truck CAFE to 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

The agency determined that Ford could reach these levels by raising its projected CAFE by an additional .08 mpg from 20.9 mpg in MY 2005 and an additional .19 mpg from 22.0 mpg in MY 2007. Ford's response to the NPRM did not specifically dispute NHTSA estimates for MYs 2005 and 2006. However, Ford indicated that it believed the agency's projection for its CAFE for MY 2007 overstated the company's capability by as much as a tenth of a mile per gallon.

In its response to the NPRM, Ford indicated that it viewed NHTSA's proposal as technologically challenging and submitted updated information about its product plans that supported this contention. At the same time, Ford indicated that it was committed to taking additional actions beyond those it already planned to achieve these ''difficult'' standards. The company indicated, as did General Motors and other manufacturers, that the agency's proposal underestimated the leadtime needed to incorporate fuel economy improvements in vehicles as well as the difficulties of introducing new technologies across a large manufacturer's fleet. Ford also indicated that hybrid and advanced diesel technology are not mature enough to improve overall CAFE performance significantly. In Ford's view, the weight increases due to safety standards have been significantly underestimated. Ford also commented that NHTSA's proposal did not account for any risks that projected increases in fuel efficiency would not materialize. As a general matter, the company also said that increased sales of full-size trucks could erode its CAFE estimates in spite of its plans.

In regard to specific changes to Ford's fleet projected by NHTSA, Ford argued that it could not take some of the measures that NHTSA had identified in the agency's Stage analysis. Some of these measures, according to Ford, would be much more costly than NHTSA estimated. Others, in Ford's view, had not yet been sufficiently proven to be suitable for use on MY 2005–2007 vehicles. Ford noted that NHTSA's use of some proven technologies would make it necessary for that company to expend tremendous resources. The company also noted that some technologies, although proven and presumably available, would not be acceptable to consumers.

NHTSA projects that Ford has the technological capability to meet the light truck CAFE standards set forth in this final rule. After reviewing Ford's comments, NHTSA has undertaken a further analysis of the company's projected capabilities and the technologies available for improving Ford's CAFE. As with General Motors and DaimlerChrysler, the agency did not include expanded production of hybrid electric or diesel engines beyond those already included in each company's product plans. However, as noted above, we believe these advanced technologies are likely to offset some of the potential risks Ford anticipates and potentially may enhance CAFE performance beyond current projections. Further, our analysis continues to apply technologies as a means of improving fuel economy in lieu of weight reduction and downsizing.

After reviewing Ford's comments, we made a number of revisions to our analysis. A more detailed account of these changes is found in the FEA accompanying this document. In general, we adjusted our estimates based on the updated product plans contained in Ford's comments. Using these plans, we considered the extent to which certain fuel economy measures are now being implemented within the industry and considered those technologies that will be sufficiently mature to be available in MYs 2005–2007. These technologies were then applied in a fashion consistent with how other manufacturers are using them and, in our view, consistent with Ford's projected capabilities.

Ford's comments also indicated that it believed that NHTSA has seriously underestimated the weight penalty, and subsequent loss in fuel efficiency, caused by weight increases necessitated by safety standards. As indicated below in our discussion of the impact of other federal standards on fuel economy, NHTSA disagrees. Some of the weight penalties claimed by Ford are related to proposed requirements that are not yet final. Others are more speculative and based on agency initiatives that have not yet generated proposals. For rules that are already in place, NHTSA believes some of the Ford claims overestimate the impact.

Based on the Stage analysis, Ford's projected light truck CAFE is 20.96 mpg in MY 2005, 21.56 mpg in MY 2006 and 22.23 mpg in MY 2007. The Volpe analysis indicates that Ford can achieve 21.00 mpg for MY 2005, 21.68 mpg for MY 2006, and 22.2 mpg for MY 2007.

3. DaimlerChrysler

The agency's December 2002 NPRM projected that DaimlerChrysler was capable of achieving a light truck CAFE of 21.3 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. Although DaimlerChrysler's comments in response to the NPRM characterized the agency's proposal as extremely challenging, the company did not dispute that it was capable of achieving these levels of fuel economy. However, DaimlerChrysler commented that the foregoing fuel economy projections would remain valid only so long as DaimlerChrysler's planned technology advancements and product mix remained intact.

The company warned that there were significant risks that expected fuel economy gains might not be realized or that consumer demand for less fuel efficient vehicles could cause a reduction in DaimlerChrysler's CAFE. Therefore, DaimlerChrysler suggested that NHTSA revise its proposal to reflect more accurately the risks faced by the company and other manufacturers in pursuing improved fuel economy. DaimlerChrysler indicated that the NHTSA proposal should be 20.9 mpg for MY 2005, 21.1 mpg for MY 2006 and 21.5 mpg for MY 2007.

DaimlerChrysler indicated that reducing the agency's proposed levels was supported by a number of considerations. The company noted that NHTSA had not seemed to consider that there were any risks that technologies might not yield greater efficiency or consumers would demand less efficient vehicles. DaimlerChrysler stated that these risks were particularly significant given the short lead time available to manufacturers if any changes needed to be made to their products for MYs 2005–2007. According to DaimlerChrysler, it was essentially ''locked in'' to its product plans for MYs 2005 and 2006. The company further indicated that even its MY 2007 product plans could only be changed in the most limited fashion. Due to this lack of leadtime, DaimlerChrysler cautioned NHTSA that it would not be possible for it, or any other vehicle manufacturer, to institute anything more than minor changes to its products through MY 2007.

The Agency's Stage analysis projects that DaimlerChrysler can achieve 21.3 mpg for MY 2005, 21.6 mpg for MY 2006, and 22.2 mpg for MY 2007. The Volpe analysis indicates that DaimlerChrysler can achieve 21.32 mpg for MY 2005, 21.60 mpg for MY 2006, and 22.24 mpg for MY 2007.

NHTSA acknowledges that its proposal simply specified a single value for CAFE for each year rather than stating ranges for each of the three model years. This led a number of commenters to conclude that the agency did not account for any risks that consumer demand may shift or that technologies would not yield expected fuel savings. However, the agency is

aware of such risks and notes that these risks are also accompanied by opportunities. Just as there is a risk that consumers may demand less fuel-efficient vehicles, changes in market conditions could also stimulate a greater demand for more efficient vehicles. Additionally, a number of potential technologies, including clean diesel and hybrid vehicles, and the shift to more fuel efficient cross-over utility vehicles, may offer opportunities for greater fuel savings and may serve to offset some of the risk anticipated by DaimlerChrysler.

The agency is certainly aware that vehicle manufacturers must have sufficient lead time to incorporate changes and new features into their vehicles. Similarly, NHTSA also recognizes that vehicle manufacturers follow design cycles when introducing or significantly modifying a product. This is why the agency has always been respectful of industry needs in this regard. At the same time, we also observe that competition has forced manufacturers to become considerably more agile in modifying and changing products to meet demand. This is evidenced by Ford's and General Motors' submitting revised product plans between May 2002 and February 2003. Generally speaking, we believe that manufacturers have the same ability to meet market driven demands for design changes as those required by regulation. NHTSA believes that the requirements of this final rule do not impose technical demands beyond those that DaimlerChrysler or other manufacturers can meet in the allotted time.

B. Economic Practicability and Other Economic Issues

The agency has estimated not only the anticipated costs that would be borne by General Motors, Ford and DaimlerChrysler to comply with the standards, but also the significance of the societal benefits anticipated to be achieved through direct and indirect fuel savings. In regard to manufacturer costs, the NPRM relied on the Volpe analysis to determine a probable range of costs. In preparing this final rule, we have prepared cost estimates using updated versions of both the Volpe analysis and the Stage analysis. We have concluded that these standards need not result in reductions in employment or competition, and that—while challenging—they are achievable within the framework described above, and that they will benefit society considerably. For the sake of this analysis, we have translated the societal benefits into dollar values and compared those values to our estimated costs to the manufacturers for this final rule.

1. Costs

After review of the comments submitted in response to the NPRM and performing further analysis, NHTSA estimates the average incremental cost per vehicle needed to meet the standards to be $22 for MY 2005, $67 for MY 2006, and $106 for MY 2007. The total incremental cost (the cost necessary to bring the corporate average fuel economy for light trucks from 20.7 mpg to the standards) is now estimated to be $170 million for MY 2005, $537 million for MY 2006, and $862 million for MY 2007.

The level of additional expenditure necessary beyond already planned investment varies for each individual manufacturer. These individual expenditures are discussed in more detail in the FEA. In order to estimate them, the agency developed cost estimates for the various technologies that are available to and technologically feasible for vehicle manufacturers within the time frame covered by this final rule. These cost estimates were developed through use of a refined ''Volpe'' analysis that incorporates a number of changes made in response to concerns pointed out by commenters.

The differences between the costs projected in the NPRM and the costs now estimated for this final rule are significant and reflect changes in the agency's methodology, calculations and underlying assumptions. We note first that our analysis of which technologies are most likely to be used by manufacturers to improve fuel economy has changed markedly as a result of the comments and updated product plans submitted in response to the NPRM. The remainder of the difference between the two cost estimates stems from changes to our ''Volpe'' analysis. Although this methodology is more completely described in both the FEA accompanying the NPRM and the FEA accompanying this final rule, the final rule ''Volpe'' analysis relies on several inputs and uses an algorithm to calculate overall costs for fuel economy improvements.

Manufacturer comments indicated dissatisfaction with the NPRM ''Volpe'' analysis. The companies, General Motors in particular, argued that our analysis underestimated the costs for certain of those technologies, contained clerical and mathematical errors, and applied technologies with little or no regard for leadtime and proper allocation of capital investment. General Motors also noted that the Volpe analysis and the Stage analysis applied different technologies. While the Volpe analysis estimated costs using one set of technologies, the agency's Stage analysis supported the proposed new standards by relying on another. General Motors also indicated that many of the technologies employed in the ''Volpe'' analysis were either not ready, did not deliver the fuel savings described and were, in many instances, not practicable for General Motors.

As indicated above, the agency reexamined and improved the Volpe analysis in response to the comments. As discussed in more detail in the FEA, we recalculated our assessment of the costs after remedying the clerical errors noted by General Motors. In contrast to the earlier ''Volpe'' analysis used to calculate the costs set forth in the NPRM, cost estimates in the final rule Volpe analysis first assumed that manufacturers would apply technologies in a fashion more consistent with our ''Stage'' analysis. As explained below, this differed from our methodology used for the NPRM. Our NPRM ''Volpe'' analysis applied the cheapest technologies first and added new technologies largely in order of increasing cost.

While our new analysis did not abandon the idea that less costly technologies would be used before those that are more costly (ranked on a cost per mpg investment basis), we considered both the order in which technologies are most likely to be used based on availability as well as cost. We also changed the methodology to recognize that capital costs require employment of technologies for several years, rather than a single year. Finally, we updated the Volpe analysis to include more accurate cost estimates for some technologies and increased benefits from others. In our view, this makes the Volpe analysis more consistent with the Stage analysis and better reflects actual conditions in the automotive industry.

General Motors argued that restricting availability of large engines would impact on sales and result in job losses. Referring to its experience with one of its models that was simultaneously redesigned and given a new 6.0L engine, General Motors stated that a large increase in sales of this vehicle resulted when the 6.0L engine replaced a smaller predecessor. The company then stated that replacing the 6.0L with a newly designed smaller engine would result in lost sales. General Motors' argument implies that replacing the 6.0L engine in this model with a smaller engine would reduce sales to a level equivalent to its sales before the redesign.

The Recreational Vehicle Industry Association commented that increases in light truck fuel economy could indirectly impact the sales and production of trailers, conversion vehicles and recreational vehicles by reducing the availability of suitably powerful light trucks and light truck chassis.

The final rule is not based on any engine shifts. Forcing through regulation substantial deviation from product offerings may impose unreasonable constraints on the market. Thus, we conclude that it is not appropriate to include such engine shifts in the Stage analysis. Since the final rule would not other necessitate any such substantial deviation, NHTSA does not believe that this standard will have an adverse effect on the recreational vehicle industry.

NHTSA's cost analysis recognizes the importance of the competitive market. We believe that the standards contained in this final rule will not limit the availability of vehicles that consumers need and want. We believe that the standards established in this final rule will not result in changes to power-to-weight ratios, towing capacity or cargo and passenger hauling ability. In short, the standards will not affect the utility of available vehicles and therefore should not affect consumer preferences for or against them. Since consumer choices will not be affected, neither will the production plans of any particular manufacturer.

2. Benefits to Society

In the FEA, the agency analyzed the economic and environmental benefits of this final rule by estimating fuel savings over the lifetime of the model year (approximately 25 years).

The agency's analysis estimated the undiscounted future impacts and then determined their present value using a 7 annual percent discount rate. We translated impacts other than direct fuel savings into dollar values and then factored them into our cumulative estimates. Adding indirect benefits to the direct benefits of fuel saved as a result of higher CAFE standards produced an incremental benefit to consumers, when reduced to present value, of $29 per vehicle for MY 2005, $83 per vehicle for MY 2006 and $121 per vehicle for MY 2007. The total present value of these direct and indirect benefits is estimated to be $218 million for MY 2005, $645 million for MY 2006 and $955 million for MY 2007.

We obtained forecasts of light truck sales for future years from the EIA's Annual Energy Outlook 2002 (AEO 2002). Based on these forecasts, NHTSA estimated that approximately 7,654,000 light trucks would be sold in MY 2005. For MYs 2006 and 2007, we estimated 7,795,000 and 7,922,000 light truck sales respectively.

We estimated fuel economy performance for each future model year's light trucks under the current CAFE standard and with alternative standards in effect, using the agency's projections for the application of fuel saving technologies. We then assessed the economic value of annual fuel savings resulting from higher light truck CAFE standards by applying EIA's AEO 2002 forecast of future fuel prices to each year's estimated fuel savings. In turn, we estimated future fuel savings by dividing the total number of miles that the surviving population of vehicles of that model year are estimated to be driven by the average on-road fuel economy level associated with the base standard of 20.7 mpg.

NHTSA then assumed that if the same trucks met a higher CAFE standard when sold, their total fuel consumption during each subsequent calendar year could be calculated by dividing the increased number of miles they are driven as a result of the higher fuel economy resulting from that standard. The sum of these annual fuel savings over each calendar year that vehicles remain in service represents the cumulative fuel savings resulting from applying a stricter CAFE standard to light trucks produced during that model year.

NHTSA's analysis of the benefits of external factors totaled $0.083 per gallon of gasoline, including $0.048 for ''monopsony'' effect (the effect on the world market price of gasoline from reductions in U.S. demand), and $0.035 for reducing the threat of supply disruptions.

In the FEA, we also analyzed the effect of the standards on vehicle and refinery emissions. Our analysis indicated that the MY 2005 standard would result in a net reduction of criteria pollutants with a present value of $2.4 million. For MY 2006, this net reduction would have a present value of $8.0 million and for MY 2007 the net reduction of criteria pollutants would have a present value of $12.7 million.

We obtained per mile emission rates using EPA's Mobile 6.2 motor vehicle emissions factor model. Then we monetized changes in total emission levels.[5]

Commenters questioned NHTSA's use of several of the variables and values used in the PEA and also in the Draft Environmental Assessment. In response to these comments, the agency further considered the use and accuracy of its chosen variables and values. In many cases, the agency concluded that, based upon current data and literature, it was correct in its determinations and has retained those variables or values. In other cases, the agency has decided to revise its assumptions and the estimates that they support. The agency's response to comments on the economic and environmental analyses is delineated below and a more detailed analysis is provided in the FEA and the Environmental Assessment.

a. Vehicle Miles Traveled and Survivability

A VMT growth rate is a key parameter used to account for travel trends and to calculate the resulting vehicle emissions. The EPA's MOBILE6 air quality model, which is used by State and local governments to help them meet Clean Air Act requirements, was used in the analysis and incorporates a 1.8 percent VMT growth rate.

Ford questioned whether the baseline on-road average annual VMT growth rate of 1.8 percent over the entire study period is accurate since, as it argues, historical data from the last ten years indicate that the VMT (per vehicle) has remained stable.

The agency notes that the information provided by Ford is accurate when referring to, as Ford does, VMT per vehicle per year. However, the 1.8 percent VMT growth rate used in the Environmental Assessment refers not to the per-vehicle VMT, but to fleet VMT per year. Historical data show that the VMT per year for the light-duty vehicle fleet has been increasing and this trend is expected to continue. The value of 1.8 percent was derived from the AEO 2002 report published by the EIA. EIA uses data from the FHWA Highway Statistics as inputs to its model and forecasts a growth rate of 1.8 percent for light-duty vehicles (combined) per year over the 2000–2020 period. Since the period covered by the agency's final rule falls within this period, the value projected by EIA is appropriate.

[5] White House Office of Management and Budget, Office of Information and Regulatory Affairs, ''Report to Congress on the Benefits and Costs of Federal Regulations,'' 1998, p. 72. See also Office of Management and Budget, ''Draft Report to Congress on the Costs and Benefits of Federal Regulations: Notice,'' **Federal Register**, Volume 67, No. 60, Thursday, March 28, 2002, p. 15041. The values used for VOC, NO_X, and SO2 are the midpoints of the ranges used by OMB. However, OMB does not provide a damage cost estimate for carbon monoxide (CO); the value used here was derived from Donald R. McCubbin and Mark A. Delucchi, ''The Health Costs of Motor-Vehicle-Related Air Pollution,'' Journal of Transport Economics and Policy, September 1999, Volume 33, part 3, pp. 253–86.

In both the NPRM and PEA, we stated that we had performed an analysis of the environmental impacts of the proposed CAFE standards by estimating fuel savings over the life of the vehicle. The vehicle life extends from the initial year in which the vehicle is offered for sale through approximately 25 years of use. A ''survival rate'' is assumed by applying estimates of the proportion of vehicles surviving at each age interval up to 25 years.

Ford and the Alliance noted that notwithstanding those statements, the agency's spreadsheet of calculated fuel savings made calculations for vehicles up to the age of 30 instead of 25 years. They said that the agency should recalculate costs, using a 25-year useful life (vehicle age) and the survival rate from the latest Transportation Energy Data Book. NHTSA notes that it did use a 25-year useful life in its proposal and that an earlier assumption of a 30-year useful life was inadvertently placed in a spreadsheet provided to those commenters who requested it.

In the analysis that accompanied the NPRM, NHTSA incorporated a baseline VMT estimate of 12,000 miles based upon an earlier NHTSA analysis of vehicle survivability and miles traveled. Union of Concerned Scientists argued that NHTSA's estimate of VMT is low compared with other studies and therefore the agency underestimates the fuel economy benefits. Union of Concerned Scientists urged NHTSA to use the mileage numbers provided in the Oak Ridge Transportation Data Book (15,000 miles) or the mileage used in the NAS analysis (15,600 miles in the first year, declining at 4.5 percent per year thereafter), instead of the 12,000 miles used in the PEA. After consideration of this issue, the agency has decided to calculate VMT based on the Update of Fleet Characterization Data for Use in EPA's MOBILE6 program. See Table VIII–2 of FEA.

b. Discount Rate

OMB requires government agencies to use a 7 percent discount rate as a base-case in their cost and benefit analyses.[6] (OMB Circular A–94 and Guidance of January 11, 1996) This approximates the average before tax rate of return to private capital in the U.S. economy, and represents, in general, the foregone returns (opportunity cost) that could have been received in private investments. With proper justification, agencies may supplement an analysis based on that rate with an analysis based on an alternative discount rate.

Both Lutter and Kravitz and the Mercatus Center argued for higher discount rates. Lutter and Kravitz stated that the agency should have used a rate ranging from 7.6–10 percent, the average new car finance rate during 1984–95.

The Mercatus Center argued that the discount rate should be much higher (14 percent–28 percent), since fuel economy should be treated as an irreversible investment. That organization stated that an example of an irreversible investment, in the business context, is a nuclear power plant, because it has large sunk costs that cannot be recovered should investment outcomes turn unfavorable. The Mercatus Center stated that households have limited portfolios of risky investments and may be unable to diversify away the risk of energy savings or other investments. It argued that to compensate for such risk, consumers require higher discount rates. The Mercatus Center claimed that the investment in fuel economy is a sunk cost at the time of purchase and cannot be reversed, should the consumer decided that the investment is unwarranted. That organization also cited empirical evidence of implicit consumer discount rates for energy efficiency in the 1970's and early 1980's in arguing for a much higher discount rate.

After considering the comments, we have decided not to use an alternative discount rate.

Discounting is required to adjust future impacts to a basis that is comparable with current impacts and to reflect society's preference for current consumption or investment opportunities. The appropriate basis for determining discount rates is the marginal opportunity cost of lost or displaced funds. When these funds involve capital investment, the marginal real rate of return on capital may be appropriate. The Office of Management and Budget has prescribed a 7 percent discount rate to represent the average before-tax rate of return to private capital in the U.S. economy. It approximates the opportunity cost of capital and is, according to OMB, ''* * * the appropriate discount rate to use whenever the main effect of a regulation is to displace or alter the use of capital in the private sector.'' The investments required to achieve fuel economy improvements will require some temporary displacement of capital. NHTSA consistently uses this discount rate in evaluating the impacts of its regulations.

c. Rebound Effect

By reducing the amount of gasoline used and thus the cost of fuel per mile driven, higher CAFE standards are expected to result in a slight increase in annual miles driven per vehicle from the levels from those that would result if the MY 2004 standard of 20.7 mpg remained in effect. The resulting increase, termed the ''rebound effect,'' offsets part of the reduction in gasoline consumption that results from improved fuel efficiency.

The magnitude of the rebound effect from higher CAFE standards for light-duty vehicles is typically derived from econometric estimates of the elasticity of vehicle use (either per vehicle or for an entire fleet) with respect to either fuel cost per mile driven or fuel economy measured in miles per gallon. In other words, these estimates examine the extent to which consumers are believed to respond to changes in fuel cost or fuel economy by driving more or less. Most recent estimates of the magnitude of the rebound effect for light-duty vehicles fall in the relatively narrow range of 10 percent to 20 percent, which implies that increasing vehicle use will offset 10–20 percent of the fuel savings resulting directly from an improvement in fuel economy. The NAS report concluded that the best estimate of the current rebound effect is 10–20 percent. On that basis, the NPRM used a value of 15 percent, the mid-point of the range in the NAS report.

The Alliance, General Motors, and Ford urged the agency to use a value of 35 percent rather than 15 percent, with a sensitivity analysis of 20 percent to 50 percent. These commenters each based this recommendation on a recent survey article, Greening, Greene, and Difiglio (Energy Policy 28 (2000) 389–401) and on the agreement of participants in ''Car Talk,'' a Clinton Administration dialogue on fuel economy among the auto industry, environmental organizations, think tanks, and government organizations. DaimlerChrysler seemed also to recommend a value of about 35 percent, stating, ''the commonly accepted price elasticity of VMT is a negative 3.5 percent, which means that a 10 percent reduction in per mile vehicle fuel consumption actually only reduces fuel consumption by 7 percent.''

General Motors stated that the agency's 15 percent figure is not supported by most literature. It urged the agency to consider the comments it submitted in May 2002 and the research it cited. In its May 2002 comments, General Motors stated that the Greening, Greene, and Difiglio article estimated

[6] For additional information about the use of discount rates in regulatory analysis, see OMB Draft Guidelines for the Conduct of Regulatory Analysis and the Format of Accounting Statements at 68 FR 5513, 5521, February 3, 2003.

the rebound effect at between 20 and 50 percent. In its new comment, General Motors stated that this article reviewed 75 articles on the rebound effect, including 22 on automotive transport. The company stated that very few of the reviewed articles showed a rebound effect of less than 20 percent, except for the short term, and several of the reviewed articles showed a rebound effect of up to 50 percent. General Motors stated that a more thorough review of the literature would have led NHTSA to use a rebound estimate of more than 20 percent.

General Motors included as an attachment to its comment a study of costs and benefits prepared by Dr. Andrew N. Kleit. Dr. Kleit stated that a recent study (Greene *et al.,* 1999) found a rebound effect of 20 percent, and he employed that result in his study. Dr. Kleit also cited the Greening, Greene, and Difiglio survey article, and stated that a 20 percent rebound effect is a conservative estimate. Dr. Kleit stated that the Congressional Budget Office, in a recent report on CAFE standards, also assumed a rebound effect of 20 percent.

The American Council for an Energy Efficient Economy noted that, with regard to the rebound effect, NHTSA stated in the NPRM that increasing fuel economy by 10 percent would produce an estimated 8–9 percent reduction in fuel economy. According to the Council, this implies that the rebound effect is between 1 percent and 12 percent, in contrast to the rebound effect of 15 percent used to calculate benefits reported in the agency's Preliminary Economic Analysis. The Council stated that clarification was necessary, and offered that a 15 percent rebound might be too high.

After careful review of the studies in light of the comments, the agency has determined that a rebound effect of 20 percent is appropriate for this action. The agency disagrees with the comments of the Alliance, General Motors, Ford and DaimlerChrysler that a number higher than 20 percent should be used. The recent comprehensive analysis of the effectiveness of CAFE standards conducted by the NAS concluded that the best estimate of the current rebound effect was 10–20 percent,[7] and the agency's analysis of NAS' fuel saving estimates indicates that the 20 percent figure was used in deriving them. The NAS' estimate was based on a review of recent studies that focused specifically on the fuel economy rebound effect for light duty vehicles, rather than on more general consumer purchases of durable goods and other energy-saving devices, which formed the basis of some of the studies emphasized in the Greening, Greene, and Difiglio survey.

The agency also believes that a careful analysis of the Greening, Greene and Difiglio survey on the rebound effect, which is a compendium of results of other studies surveying a wide range of rebound effects (including those associated with durable goods and energy-saving devices), shows that use of 20 percent for the rebound effect is reasonable when limiting the review to the studies analyzing vehicle use.

In response to American Council for an Energy Efficient Economy's comments, the agency notes that an 8 percent reduction in fuel use in response to a 10 percent improvement in fuel economy means that 2 percentage points of the fuel savings that would otherwise result from the 10 percent increase in fuel economy is offset by additional driving. This response implies a rebound effect ranging from 10 percent (calculated as 1 percent divided by 10 percent) to 20 percent (2 percent divided by 10 percent), the range specified in the Preliminary Economic Analysis and also used in the Draft Environmental Assessment.

The Alliance and General Motors contended that the additional miles traveled by virtue of the rebound effect could increase overall exposure to motor vehicle crashes. We note that we have now provided a value associated with the various potential consequences of increased exposure, including congestion, noise and crashes.

We recognize that the magnitude of the assumed rebound effect and the implications of any rebound effect are complex issues. NHTSA will continue to monitor relevant research for use in future CAFE rulemakings.

d. Baseline of 20.7

In our analysis, costs were estimated based on the specific technologies that were applied to improve each manufacturer's fuel economy from the level of the manufacturer's plans up to the level of the final rule. Benefits were also determined from the level of the manufacturer's plans up to the level of the final rule. If the manufacturer's plans did not reach the level of the MY 2004 standard, 20.7 mpg, the costs and benefits were estimated based on the specific technologies that were applied to improve each manufacturers' fuel economy from 20.7 mpg to the level of the final rule.

The Alliance, Ford, General Motors, and DaimlerChrysler commented that the use of 20.7 mpg as a baseline for fleet-wide fuel economy was inappropriate because the 20.7 figure incorporates anticipated technologies and fuel economy gains which are not being credited in NHTSA's analyses. The Alliance suggested that a more appropriate baseline would utilize data from the current model year assuming the manufacturers meet the 20.7 mpg CAFE standard absent technologies used in anticipation of future standards. Alliance to Save Energy and Public Citizen, on the other hand, claimed that NHTSA relied too heavily on this baseline, as well as manufacturers' projections, and should have given greater consideration to manufacturers' earlier voluntary commitments to improve fuel economy of their light trucks fleets by 2007.

NHTSA continues to believe that 20.7 mpg is a valid baseline measure for fuel economy for several reasons. First, manufacturers are required to achieve a standard of 20.7 mpg standard through MY 2004. Second, the agency considers both the costs and benefits for a manufacturer to meet the new standards from either the level of the manufacturer's plans up to the level of the final rule or 20.7 mpg up to the level of the final rule. The costs to manufacturers of meeting the new standard have not been ignored in our analysis. Finally, the agency continues to believe that using manufacturers' projections in determining their fleet wide fuel economy is the most practical means of determining those figures. These projections are the only means by which the agency can account for the planned introduction of new vehicle models.

The NPRM addressed the issue of manufacturers' earlier voluntary commitments to fuel economy. We noted that, in response to the agency's Request for Comments, DaimlerChrysler, Ford and General Motors clarified their public commitments relating to fuel economy improvements in their vehicles. More specifically, Ford clarified its July 2000 announcement that it planned to increase the fuel economy of its sport utility vehicle fleet by 25 percent by the 2005 calendar year. Ford stated that its plan calls for a significant fuel economy improvement in its existing fleet combined with the introduction of new SUVs with higher fuel economy capabilities. Ford also explained that its commitment uses MY 2000 as the base year and that the increase will become

[7] Committee on the Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards, National Research Council, Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards, Washington, D.C., National Academy Press, 2002, pp. 19–20.

effective with the introduction of the MY 2006 vehicles during the latter half of 2005.

General Motors stated that its public announcement did not refer to its average fuel economy levels, but rather to its leadership in light truck fuel economy and its intent to remain the leader over the next five years. General Motors also made clear that its leadership relates to the manufacture and *sale* of more fuel-efficient light trucks as measured through model-to-model comparisons of comparable vehicles.

Finally, DaimlerChrysler stated that it is committed to improving the fuel efficiency of all of its vehicles and that its fleet will match or exceed those of other full-line manufacturers.

e. Fraction of Calendar Year

General Motors commented that our assumptions regarding the fraction of the calendar year that new model vehicles are on the road should be adjusted downward, apparently to reflect the fact that most new vehicles are not in service for the entire calendar year in which they are sold. We note that our previous analyses did adjust for the fact that new vehicles are typically in service for less than twelve months during the year in which they are sold, although we used a slightly different procedure than that suggested in General Motors' comments. Instead of adjusting the estimated *sales* of vehicles of each model year downward during the calendar years when they are available for sale, as General Motors seems to recommend, we adjusted our estimates of light truck *usage* (average annual miles driven per vehicle) downward for those ages corresponding to the years when each model year is on sale.[8] We believe that this procedure is consistent with that recommended by General Motors in its comments, and we have also applied it to the revised estimates of annual light truck use incorporated in our revised analyses.

f. Value of Externalities

The full economic cost of importing petroleum into the U.S. includes three components, or ''externalities,'' in addition to the purchase price of petroleum itself. These externalities are: (1) Demand costs representing the higher costs for oil imports resulting from the combined effect of U.S. import demand and OPEC market power on the world oil price (also known as ''monopsony'' power), (2) disruption costs representing the risk of reductions in U.S. economic input and disruption of the domestic economy caused by sudden reductions in the supply of imported oil to the U.S., and (3) military security and strategic petroleum reserve costs representing the costs for maintaining a U.S. presence to secure imported oil supplies from unstable regions and for maintaining the Strategic Petroleum Reserve (SPR) to cushion against resulting price increases.

In the NPRM, we estimated that total value of externalities at 8.3 cents per gallon. This figure combined 4.8 cents per gallon in demand costs (monopsony effect) and 3.5 cents per gallon in supply disruption costs. Because the costs of maintaining a SPR have not varied in response to changes in oil import level, our analysis did not include any costs savings from maintaining a smaller SPR among the external benefits of reducing gasoline consumption and petroleum imports by means of a higher CAFE standard for light-duty trucks.

In response to our valuation of these externalities, the Alliance stated that an appropriate value for an oil import externality is zero because the sum of the externalities is exceedingly small. It argued that if the U.S. reduced oil consumption, it would, in theory, benefit from a reduction in oil price. The Alliance also pointed to studies by the Congressional Research Service and Bohi and Toman indicating that they question the existence of any significant externality associated with oil supply disruptions. Similarly, General Motors, citing to a study by Bohi and Toman of Resources for the Future, commented that NHTSA should not include monopsony power because U.S. monopsony pricing power has marginal benefits at best. Also, General Motors argues, citing to Bohi and Toman and a study by the Congressional Research Service, that disruption costs should not be included in the agency's analysis because the private sector uses hedges, inventories and the SPR to mitigate the risks from any significant market failure. The Mercatus Center stated that the link between energy security and fuel economy is not well known, but likely close to zero, because energy security relates to the price of oil, not its origin.

NHTSA does not agree with commenters on the value of these externalities. The extent of monopsony power is dependent upon a complex set of factors including the relative importance of U.S. imports in the world oil market, and the sensitivity of petroleum supply and demand to its world price among other participants in the international oil market.

As discussed in Chapter VIII of the FEA, most evidence appears to suggest that variation in U.S. demand for imported petroleum continues to exert some influence on world oil prices. A detailed and careful analysis by Leiby *et al.* (1993) estimated a range of values for this cost corresponding to approximately $1.00–$3.00 per barrel in today's dollar terms. Using the midpoint of this range, reducing the level of U.S. oil imports by raising CAFE standard to lower future gasoline use by light trucks results in benefits to the U.S. economy of approximately $0.48 per gallon of gasoline.

With regard to disruption costs, while the vulnerability of the U.S. to oil price shocks is widely thought to depend on total petroleum consumption rather than on the level of oil imports, variation in imports is still likely to have some effect on the magnitude of the price increase resulting from any disruption of import supply. In addition, changing the quantity of petroleum imported into the U.S. may also affect the probability that such a disruption will occur. If either the size of the resulting price increase or the probability that U.S. oil imports will be disrupted is affected by the pre-disruption level of oil imports, the expected value of the costs stemming from the supply disruptions will also vary in response to the level of oil imports.

Another detailed and exhaustive study by Leiby *et al.* (1997) estimates that, under reasonable assumptions about the probability that import supplies will be disrupted to varying degrees in the future, this component of the social costs of oil imports ranges from well under $10.00 to approximately $2.00 per additional barrel of oil imported by the U.S. The agency believes that an estimate of approximately $1.50 per barrel (or 3.5 cents per gallon) is reasonable for the disruption costs component of imported petroleum and that reductions in the level of oil imports resulting from

[8] Specifically, our analysis adjusted the estimated usage figure for ''age zero'' light trucks (those sold during the calendar year preceding their model year) to assume that they are in service for an average of two months of the calendar year in which the vehicles of each model year are introduced. This assumption is intended to reflect the typical dates on which the vehicles of a model year are introduced and monthly sales patterns for recent model years. Similarly, we adjusted the usage figure for ''age 1'' light trucks (those sold during the same calendar year as their model year) using the assumptions that one-quarter of those vehicles had been purchased during the previous calendar year and were thus in service for the entire calendar year, and that the remaining three-quarters were purchased throughout the first eight months of the following year (and were thus in service for, on average, two-thirds of that year). These assumptions are consistent with monthly sales patterns for recent model-year light trucks.

gasoline savings in response to a higher CAFE standard for light-duty trucks would reduce disruption costs by this amount in addition to the value of savings in gasoline itself.

General Motors and Lutter and Kravitz commented that the agency's economic analysis should include the external costs of increased congestion, noise, and accidents caused by additional driving due to the rebound effect. While the agency views the values provided by Lutter and Kravitz and General Motors out of the mainstream of estimates, the agency has decided to add these costs into its analysis. The agency reviewed several sources for estimates, including FHWA, and determined that it will use a figure of 4.0 cents, 2.15 cents, and 0.06 cents per vehicle-mile for congestion, accident, and noise costs, respectively.

Both vehicle manufacturers and consumer groups commented on the effect of higher vehicle prices on sales. Consumer groups argued that consumers are willing to pay more for fuel economy. Honda, on the other hand, questioned whether consumers would trade other features for fuel economy and whether they would consider fuel economy savings beyond their ownership period. The agency has decided to add into its analysis a discussion of the impacts of higher prices on sales. Based on the economic literature, cited in Chapter VII of the FEA, a price elasticity of 1.0 is assumed. The agency believes that higher light truck prices could shift some new vehicle sales from light trucks to automobiles and might also delay retirement and replacement of used vehicles.

The agency has also decided to provide a value associated with the benefits attained through refueling time saved over the lifetime of the vehicle. No direct estimates of the value of extended vehicle range were readily available, so our analysis calculates the reduction in the annual number of required refueling cycles that results from improved fuel economy, and applies DOT-recommended values of travel time savings to convert the resulting time savings to their economic value. (*See* Chapter VIII of the FEA for a detailed description of those values.) The estimated change in required refueling frequency reflects the increased light truck use associated with the rebound effect, as well as the increased driving range stemming from higher fuel economy. The present value of lifetime social benefit from extended vehicle range are estimated at $22.6 million for MY 2005, 73.2 million for MY 2006, and 107.7 million for MY 2007. We recognize that this value may represent an upper bound estimate of this benefit. Some people may periodically refuel their vehicles (*e.g.,* each weekend) regardless of how much fuel they have.

g. Refinery Emissions/GREET

In order to estimate the contribution of refinery emissions, we employed the GREET model in our analysis. The Draft Environmental Assessment included petroleum refining and distribution emissions as representative of ''upstream'' emissions. The agency calculated the changes in these upstream emissions under the proposal. General Motors commented that the agency incorrectly used extraction emissions factors in its analysis.

Upon reviewing this issue, the agency agrees with General Motors' comment that we did not appropriately account for the emissions reductions likely to result from gasoline savings due to the agency's CAFE action. However, the agency disagrees with General Motors' contention that emissions attributable to petroleum extraction would be unaffected by the action and should thus be excluded from its analysis of the action's potential environmental impacts.

In response to General Motors' comments, we have used information derived from the GREET model to disaggregate total emissions throughout the gasoline supply process into those occurring during each of the different stages in that process, and we have employed these disaggregated emission factors to develop more reliable estimates of the reduction in emissions associated with lower gasoline consumption by light trucks. Specifically, we have used information extracted from the GREET model to develop separate estimates of emissions that occur during each of four phases of the gasoline production and distribution process: crude oil extraction; crude oil storage and transportation to refineries; gasoline refining; and transportation, storage, and distribution of refined gasoline. (Emissions that occur during vehicle refueling at gasoline stations are included in our estimates of increased emissions from additional light truck use due to the rebound effect, and are presented separately in the analysis.)

Our revised analysis incorporates the following assumptions in estimating the reductions in these emissions from lower gasoline use by light trucks: (1) Reductions in imports of gasoline reduce emissions associated with gasoline transportation, storage, and distribution; (2) reductions in domestic refining of gasoline from imported crude oil reduce emissions associated with crude oil transportation and storage, crude oil refining into gasoline, and gasoline transportation, storage, and distribution; and (3) reductions in domestic refining of gasoline from domestically-produced crude oil reduce emissions associated with crude oil extraction, crude oil transportation and storage, gasoline refining, and gasoline transportation, storage, and distribution.[9]

We use these assumptions in conjunction with the disaggregated emission factors for each phase of the gasoline supply process and assumptions regarding the reductions in imports and domestic refining of gasoline (see foreign-domestic split, below) attributable to fuel savings from this final rule. The resulting estimates of emissions reductions associated with gasoline supply and distribution are reflected in our calculations. We believe that these estimates respond to General Motors' concerns.

h. Foreign-Domestic Split

In the NPRM, we assumed that 45 percent of the reduction in fuel use would be reflected in reduced domestic gasoline refining, and that the remaining 55 percent would be met by reduced imports of refined gasoline. We stated, ''Part of the fuel savings resulting from the Proposed Action leads to lower U.S. imports of refined gasoline, and thus does not affect refinery emission levels in the U.S. However, the remaining fuel savings are assumed to reduce the volume of gasoline refined within the U.S. (from either imported or domestically-produced crude petroleum), which produces a corresponding reduction in criteria pollutant refinery emissions. This analysis assumes 55 percent of refined gasoline is imported and 45 percent is refined domestically.'' This estimate was based on a detailed analysis of differences in gasoline consumption, imports, and domestic refining between the ''Low Economic Case'' and the ''Reference Case'' forecasts presented in the EIA's AEO 2002. (This analysis was conducted by EIA at the request of the agency.)

General Motors questioned this assumption, stating that there is little evidence that this same proportion

[9] In effect, these assumptions imply that the distance that crude oil typically travels to reach refineries is approximately the same regardless of whether it is transported from domestic oilfields or import terminals, and that the distance that domestically-refined gasoline travels from refineries to retail gasoline stations is approximately the same as foreign-refined gasoline must be transported from import terminals to these same gasoline stations.

would apply to reductions in fuel use under the proposal. General Motors cited new low sulfur fuel requirements and suggested that this might constrain the ability of foreign suppliers to meet U.S. refined fuel needs, with the result that a reduction in fuel consumption could lead to lower imports of refined gasoline rather than less refining in the U.S. General Motors also questioned the existence of emission reductions from domestic oil refineries based on the idea that they might fall under a cap and trade system, which would allow them to trade any potential reduction in emissions or adjust production to remain at the cap. Finally, General Motors commented that the domestic-import split in refined gasoline should be examined in terms of its marginal effects on refinery and other sources of emissions during the gasoline supply process.

In response to General Motors' comment about emissions caps, the agency contacted EPA, which stated that refineries are not regulated under any national cap and trade system. While refineries in States with Clean Air Act State Implementation Plans may be under some regulatory framework at the local or regional level, we found no regulatory programs that lead us to question the existence of real reductions in refinery emissions from baseline levels. General Motors' comment that the domestic-import split be examined in terms of its marginal effects on emissions is addressed elsewhere in this document.

Based on the remainder of General Motors' comments, we have reexamined this issue and have determined that additional data are available to support a revised assumption about the distribution of CAFE fuel savings between savings in gasoline imports and reduced domestic refining. More detailed data obtained from EIA provide a direct measure of historical and current variations in imported and domestic sources of gasoline in response to variations in U.S. gasoline consumption. Although test data capture the integrated effect of all factors—not just fuel economy—that influence the market for gasoline, we believe that as observations rather than forecasts, they provide one reliable source of information related to this issue. According to the EIA, ''In 2001, United States refineries produced over 90 percent of the gasoline used in the United States.'' Current EIA data [10] for the four-week period ending February 14, 2003 corroborate this figure by stating that 91.5 percent (7.939 MBPD) of the gasoline used by the U.S. during that period was refined domestically, and 8.5 percent (0.736 MBPD) was imported. These data (although not on an on-the-margin basis) produce an estimate that approximately 90 percent of the reduction in fuel use from the proposed CAFE standard would be met by lower domestic refining, while the remaining 10 percent would be reflected in reduced imports of refined gasoline.

Analysis of historical data concerning variations in gasoline consumption and imports reported by EIA supports a similar estimate of the likely response to gasoline savings. This analysis compares annual changes in domestic gasoline refining and gasoline imports to annual changes in U.S. gasoline consumption. From the period 1992 to 2002, growth in foreign refining accounted for 10 percent of the total growth in gasoline consumption.[11] EPA has also assumed a similar distribution of reductions in domestic and foreign refining in some analyses of potential reductions in refinery emissions in response to gasoline savings.

General Motors' criticism of the agency's analysis of refining emissions based on the theory that the pending low sulfur fuel regulations (part of the ''Tier 2'' regulations) [12] might inhibit foreign refiners from being able to meet increased U.S. gasoline demand appears to misinterpret the analysis presented in the Draft Environmental Assessment. The Tier 2 regulations are not a part of the agency's CAFE action, but they do provide part of the backdrop against which we must evaluate our action. If the low sulfur requirements do result in an increased fraction of U.S. gasoline consumption being supplied by domestic refiners, as General Motors suggests, it follows that a similarly increased fraction of fuel savings resulting from the agency's CAFE action would be reflected in reduced domestic refining, with the result that the associated domestic emissions from gasoline refining would be reduced by more than would otherwise be the case. Thus General Motors' comment supports rather than undermines the agency's treatment of potential emissions reductions from reduced domestic refining.

We acknowledge, however, that the distribution of fuel savings between reductions in domestic refining (90 percent) and reductions in gasoline imports (the remaining 10 percent) discussed above differs from the distribution forecast by EIA's National Energy Modeling System (NEMS). Following DOE's release of the version of NEMS used to develop Annual Energy Outlook 2003 (AEO 2003), we used this modeling system to explore this issue more closely. To develop a baseline, we ran the model with all inputs at values provided by DOE for the AEO 2003 reference case. To test the effects of the Proposed Action, we then ran the model after changing only those inputs corresponding to light truck CAFE standards. For each calendar year during 2006–2020, we calculated the extent to which these cases differed in terms of petroleum product consumption and imports. We then calculated the ratio between changes in imports and changes in consumption. Unexpectedly, total petroleum product imports were calculated to be 0.039 quads higher in 2006 with the proposed standards than in the reference case, although this was more than offset by a calculated 0.073 quad decline in crude oil imports. Thus, the above-mentioned ratio was −1.05 in 2006. However, during the rest of the period, petroleum product imports were calculated to be lower always with the proposed light truck standards than in the reference case, and the ratio of changes in petroleum product imports to changes in petroleum product consumption ranged from 0.62 to 1.14. As for cumulative changes, the ratio was 0.97 during 2006–2020 and 0.99 during 2007–2020. In other words, for every CAFE-induced 100-gallon reduction in petroleum product consumption, NEMS predicted that petroleum product imports would fall by 97–99 gallons.

We have discussed the disparity between these forecast trends and the implications of current and historic gasoline supply data with representatives of the Department of Energy (DOE) and EIA. They acknowledge that predicting the specific gasoline supply sources likely to be affected by the reductions in U.S. gasoline use associated with the new CAFE standards is extremely difficult and its results uncertain. DOE also indicated that the sources of changes in refined gasoline supply vary greatly by region of the U.S., with nearly all variation in gasoline demand on the East Coast met by changes in supply from foreign refiners, while changes in demand in other regions of the U.S. are

[10] *www.eia.gov,* ''This Week in Gasoline,'' four-week period ending February 14, 2003.

[11] Calculated from data reported in Energy Information Administration, Monthly Energy Review Database, ''Petroleum,'' Table 3.4 (*http://www.eia.doe.gov/emeu/mer/mets/table3_4.xls*).

[12] The Tier 2 limits on gasoline sulfur content are schedule to take effect beginning in 2006; for details, see EPA, Tier 2/Gasoline Sulfur Final Rulemaking (*http://www.epa.gov/otaq/tr2home.htm*).

met almost entirely by changes in domestic refining activity. As a consequence, the specific geographic pattern of fuel savings resulting from the agency's action—which depends in turn on the distribution of light truck purchases and use—is likely to influence the mix of reduced gasoline imports and domestic refining that occurs in response to these fuel savings.

The agency believes that the consistent association between changes in gasoline demand and domestic refining activity revealed in current and historical data is notable, and that the effect of the pending Tier 2 fuel standards will reinforce this association. However, we also realize that the effects of future variation in gasoline demand on foreign and domestic sources of supply may differ from these historical patterns. Since the new CAFE standards will take effect in the future, the agency believes it is prudent also to consider these forecast changes in foreign and domestic gasoline supply in its analysis.

In an effort to do so, as well as to recognize the uncertainty inherent in forecasting the future effects of lower gasoline demand on specific supply pathways, the agency has elected to assume that 50 percent of the reduction in future light truck gasoline use resulting from its action will be reflected in reduced imports of refined gasoline, while the remaining 50 percent will be translated into reductions in domestic gasoline refining. The agency recognizes that neither historical data nor forecast trends indicate that changes in gasoline use are likely to have equal effects on gasoline imports and domestic refining. However, this assumed distribution represents a probability-weighted average impact of reduced gasoline consumption, which incorporates both the extreme range of possible outcomes suggested by historical and forecast data, as well as the approximately equal likelihood that either outcome will occur.

The agency further assumes that the resulting decline in U.S. gasoline production will reduce domestic refiners' use of imported and domestic crude petroleum feedstocks in direct proportion to their current fractions of total U.S. refinery feedstock use. The implications of these assumptions for the resulting changes in emissions occurring during various phases of the gasoline supply chain are discussed in detail elsewhere in this document, addressing General Motors' concern that the agency examine the domestic-import split in terms of its marginal effects on refining and other sources of emissions.

i. Greenhouse/Carbon Emissions

Environmental Defense requested that NHTSA place a value on the benefit of avoided greenhouse gas emissions, while also noting the magnitude of the global warming externality is admittedly difficult to estimate. The value of avoiding greenhouse gas emissions is unquantifiable at this time. However, our analysis in the Environmental Assessment indicates that if the proposed standards were adopted in the final rule, they would result in an estimated 9.4 million metric tons of avoided greenhouse gas emissions over the 25-year lifetime of the vehicles (measured in terms of carbon equivalents).

3. Comparison of Estimated Costs to Estimated Societal Benefits

NHTSA estimates that the direct fuel-savings to consumers account for the majority of the total social benefits, and exceed the estimated costs of adopting more fuel-efficient technologies. In sum, the total incremental costs by model year compared to the incremental societal benefits by model year are as follows:

[Dollars in millions]

Model year	Total costs	Total societal benefits	Net benefits
2005	$170	$218	$48
2006	537	645	108
2007	862	955	93

In light of these figures, we have concluded that the final rule serves the overall interests of the American people and is consistent with the balancing that Congress has directed us to do when establishing CAFE standards. For all the reasons stated above, we believe the final rule is economically practicable and, independently, that it is a cost beneficial advancement for American society.

a. Consumer Choice

In their comments on the NPRM, automobile manufacturers argued that in a well-functioning market with fully informed consumers and manufacturers, consumers would take into account the savings to themselves associated with more fuel-efficient vehicles. Therefore, if the value of cumulative fuel savings exceeded the additional price and associated financing cost of purchasing a more fuel-efficient vehicle, consumers should be inclined to buy these vehicles and producers should be inclined to sell them. The Mercatus Center stated that the analysis should include foregone benefit to consumers from not being able to choose attributes they prefer in a vehicle.

The automobile manufacturers and Mercatus Center raised these issues and arguments because they do not believe that there is a market failure in the market place. Many commenters asserted that NHTSA had made a determination that there is a market failure in the provision of vehicle fuel efficiency. In the NPRM, the agency did not make any such determination. NHTSA noted a paradox that cost-saving technologies appeared to be penetrating the market to only a limited extent and therefore sought public comment on possible sources of market failure.

First, on the supply side of the vehicle market, it is well known that the light truck market is concentrated in three large producers who account for roughly 75 percent of market share, although there are a number of smaller producers that account for the remaining 25 percent. As several commenters noted, there is substantial evidence of competition among producers in the light truck market and indications that the three large producers are under increasing competition from the smaller producers. Under these circumstances, NHTSA maintains its previous statement that there is only a ''remote'' possibility that a supply side failure in the marketplace accounts for the limited market penetration of cost-saving, fuel-saving technologies.

Second, commenters discussed whether there could be a failure on the demand side of the market for fuel economy, rooted perhaps in the way that consumers perceive the private benefits of enhanced fuel economy and incorporate that information in their purchasing decisions. Several commenters noted that consumers are provided clear and substantial information about the fuel efficiency ratings of different vehicles, including information about the operating expenses associated with these fuel efficiency ratings. However, the argument for demand side failure may have less to do with the absence of consumer information about fuel efficiency than with the overall complexity of the vehicle-purchasing decision, the number of other factors of greater salience to consumers, the temporal aspects of ownership and resale, and the difficulty of weighing fuel efficiency differences against other (especially nonmonetary) attributes of vehicles. Rational consumers, cognizant of decision making costs, may use simplified decision rules when purchasing vehicles that give limited, diminished or no weight to fuel

economy differences—at least when projected fuel prices are relatively low. The agency does not know whether this demand-side argument is true and did not receive much comment that supports or refutes it. The agency believes the plausibility of this argument is less remote than the supply-side argument but still quite speculative. Regardless of how consumers perceive fuel economy benefits when they make purchasing decisions, it is clear that consumers will experience the benefits of cost-saving technologies when they operate their vehicles—assuming the engineering-economics information underlying the NAS Report is accurate.

b. EIA Analysis and Employment

As part of the interagency review process, the EIA provided NHTSA with a preliminary analysis of the energy and economic impacts of an increase in light truck CAFE standards comparable to the proposed rule. NHTSA discussed this analysis in the NPRM and included a copy of it in the docket for the rulemaking. Specifically, EIA analyzed standards of 21.2, 21.7, and 22.2 mpg for MYs 2005–2007, respectively. Using its NEMS, EIA's analysis indicated that the actual average fuel economy of new light trucks would increase to 21.7 mpg in MY 2005—well beyond the 21.2 mpg required during that year—but would fall slightly short of the 22.2 mpg standard by MY 2007. The EIA analysis also projected that NHTSA's proposed rule would cause a greater increase in the cost of light trucks than estimated by NHTSA and a slight reduction in the average weight of light trucks. NHTSA estimated no weight reduction. EIA's estimates of fuel savings resulting from stricter CAFE standards for light trucks also appear to be larger than those calculated in NHTSA's analysis. Finally, EIA's projected effects on employment and real GDP are slightly negative through 2010, but become positive during 2011 to 2020.

The automobile industry commented that EIA's analysis differed from NHTSA's in that its projected effects on employment and real GDP are slightly negative through 2010, but become positive during 2011 to 2020. Additionally, commenters noted that recent studies by the Congressional Budget Office and Professor Kleit concluded that CAFE standards are not cost-effective.

As discussed in the NPRM, the differences in results of the two analyses of the proposed light truck standards stem primarily from differences in the underlying approaches of models. For example, the NEMS model effectively treats all manufacturers identically, while NHTSA's approach relies heavily on detailed manufacturer-specific data. As a result of these differences, NHTSA's approach has advantages for analyzing the effects of near-term modest increases, while the NEMS approach is more useful for analyzing longer-term industry-wide effects of larger increases in the standards. For shorter-term analysis of modest increases in required fuel economy levels, confidential information about the differences in the relative fuel economy capabilities of the individual manufacturers at the model-specific level is essential. This is because the technology application burdens and cost impacts imposed on individual manufacturers by the stricter standards will differ significantly. Where longer-term, industry-wide analysis of significant increases in CAFE standards is required, current differences in manufacturer capabilities become much less relevant. In addition, NEMS'' ability to estimate macroeconomic ''feedbacks'' from stricter CAFE standards is very useful.

20/20 Vision also commented on employment by stating that their study, ''Fuel Standards and Jobs,'' shows that raising CAFE standards by 20 percent in 2010 would net 70,000 jobs by 2010 and 30,000 jobs by 2020. This study used a large-scale econometric 80-order interindustry model of the U.S. economy using the Management Information Services, Inc. (MISI) model. This model assumes no major market penetration of hybrid, fuel cell, or alternative fuel vehicles. Public Citizen cited ''Drilling in Detroit,'' a report by the Union of Concerned Scientists, in support of the proposition that increased CAFE standards would lead to increased employment.

Based on our analysis of the MISI assumptions, the actual employment effects of this rulemaking would be much less than that asserted by 20/20 Vision for a number of reasons.

First, because 20/20 Vision's model assumed a 20 percent increase in CAFE for passenger cars and light trucks, and light trucks are about 50 percent of the market, its estimates should be multiplied by 0.5 for this light truck rulemaking. Second, since the proposed CAFE standard increase by NHTSA is about 7 percent (22.2/20.7 mpg) rather than 20 percent, if the model were linear, the estimate might be multiplied by 0.35 (7/20).

Third, the assumed cost impact ($700 per vehicle, which is related to the 20 percent increase in fuel economy) is disproportionately high compared to our estimate for this rule. Fourth, the MISI model translates increased expenditures for reconfigured motor vehicles into per unit outputs for that industry and support industries. This assumption is not appropriate. Many of the technology improvements would not increase the number of jobs. For example, moving from a 4-speed to a 5-speed or 6-speed automatic transmission would result in very few additional jobs and changing tires would result in very few additional jobs. It appears that the MISI model assumes that these are increases rather than substitutions of technologies.

Fifth, 20/20 Vision's analysis of a 30 percent increase in CAFE estimates an increase in the Motor Vehicle and Equipment Industry of about 155,000 jobs. This number seems implausible to the agency because there are currently only 900,00 jobs in the industry. Finally, the MISI model does not seem to take into account that higher prices potentially reduce sales and thus employment levels.

VIII. The Effect of Other Federal Vehicle Standards on Fuel Economy

The statute specifically directs us to consider the impact of other Federal vehicle standards on fuel economy. This statutory factor constitutes an express recognition that fuel economy standards should not be set without due consideration given to the effects of efforts to address other regulatory concerns, such as motor vehicle safety and emissions. The primary influence of many of these regulations is the addition of weight to the vehicle, with the commensurate reduction in fuel economy.

A. Federal Motor Vehicle Safety Standards

The agency has evaluated the impact of the Federal Motor Vehicle Safety Standards (FMVSS) using MY 2001 vehicles as a baseline. We have issued or proposed to issue a number of FMVSSs that become effective between the MY 2001 baseline and MY 2007. The fuel economy impact, if any, of these new requirements will take the form of increased vehicle weight resulting from the design changes needed to meet new FMVSSs.

The average test weight (roughly equal to curb weight plus 300 pounds) of the light truck fleet in MY 2001 was 4,501 pounds. The average test weight for General Motors, Ford, and DaimlerChrysler light trucks subject to the CAFE standard for MY 2001 was 4,627 pounds. The average test weight for light trucks of these three manufacturers is expected to increase slightly between MY 2001 and MY

2007. The change in weight includes all factors, such as changes in fleet mix of vehicles, required safety improvements, and voluntary safety improvements. Our review of new safety requirements that will apply to the MY 2005–2007 light truck fleet indicates that compliance with the following safety standards will have an impact on vehicle weight:

1. FMVSS 138, Tire Pressure Monitoring Systems

As required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, NHTSA published a final rule in June 2002 (67 FR 38704) requiring Tire Pressure Monitoring Systems (TPMS) be installed in all passenger cars, multipurpose passenger vehicles, trucks and buses that have a GVWR of 10,000 pounds or less, effective in November 2003. We estimated that the added weight would be that of electrical parts weighing not more than half a pound (0.23 kilograms or less) per vehicle. Ford submitted comments indicating that NHTSA's projection underestimated the weight penalty for complying with this standard. However, Ford's suggested weight penalty was not significantly higher than that estimated by the agency and would not have any greater impact on fuel economy.

2. FMVSS 139, Tire Upgrade

The TREAD Act mandated rulemaking to revise and update our safety performance requirements for tires. On March 5, 2002, NHTSA published a proposal to upgrade those requirements (67 FR 10050). Our Preliminary Economic Assessment for the proposed tire upgrade indicated there would be added cost for the improved tires but no increased weight. We also observed that changes to the required normal load ratings for passenger car tires might make it necessary for some of these vehicles to have larger tires, which would add an undetermined minimal amount of weight to those vehicles. In regard to light trucks, we observed that the agency's proposal would, for the first time, establish a maximum vehicle normal load rating for light truck tires but did not indicate if meeting the requirement would make it necessary for manufacturers to use larger rims and tires on their trucks.

Both Ford and General Motors submitted comments indicating that the proposed requirements of FMVSS 139 could have significant impacts on fuel economy. Ford indicated that the agency's proposed rule would impose weight increases from a need to make tires heavier and for rims on vehicles to be larger. General Motors' comments indicated a belief that the proposed requirements could have a serious impact on fuel economy by increasing rolling resistance.

Although NHTSA has not yet issued a final rule, the agency believes that the concerns raised by Ford and General Motors are not well founded. While General Motors did not indicate with specificity exactly why it believed that FMVSS 139 would increase rolling resistance, NHTSA believes that the standard is more likely to decrease rolling resistance. One component of NHTSA's proposal for FMVSS 139 is new requirements for high-speed endurance. Meeting these new endurance requirements is likely to result in tires that have less, rather than more, rolling resistance. One of the principal factors affecting tire endurance at high speeds is heat buildup in the tire. Tires with less rolling resistance generate less heat and have more endurance. Therefore, the new requirements are likely to encourage tires with less rolling resistance.

Ford's concern, which indicated a weight penalty from heavier tires and rims, evidently stems from a concern that complying with new high speed test requirements in FMVSS 139 and application of the load reserve requirements of FMVSS 110 to light trucks will force manufacturers to use heavier tires and rims on these trucks. FMVSS 110 specifies requirements for tire and rim selection for new vehicles. One purpose of these requirements is to prevent tire overloading by specifying that rims and tires provide a minimum load reserve.

According to Ford, the agency's proposal to modify FMVSS 139 and 110 to require light truck manufacturers to meet these load reserve requirements could, for those light trucks that did not already meet the new load reserve requirements, have the effect of making it necessary for manufacturers to use larger wheels and tires on their vehicles. However, NHTSA is currently evaluating its proposal in light of the public comments and has not yet issued a final rule. We anticipate that the agency's concerns relating to overloading will be addressed without creating a need to equip light trucks with larger wheels and tires.

3. FMVSS 201, Occupant Protection in Interior Impact

This standard specifies requirements to afford protection for occupants from impacts with interior parts of the vehicle. On April 5, 2000, NHTSA issued a proposal to require that the door frames on pillarless multi-door vehicles and seat belt mounting structures on soft top utility vehicles meet the upper interior head protection requirements of FMVSS 201. The proposed requirements would apply to passenger cars and to multipurpose vehicles, trucks, and buses with a GVWR of 10,000 pounds (4,536 kilograms) or less. Because these proposed requirements will apply only to a very small percentage of light vehicles, the agency believes that the requirements will not have an effect on the CAFE of any manufacturer. Finally, we note that none of the commenters attributed any fuel economy impacts to this standard.

4. FMVSS 202, Head Restraints

In January 2001, the agency published a proposal to improve front seat head restraints in passenger cars, pickups, vans, and utility vehicles and require head restraints in the rear outboard positions (66 FR 967). Because many pickup trucks and some vans do not have back seats, their average weight increase under that rulemaking would be lower than that for automobiles. NHTSA estimated the average weight gain for light trucks, vans and SUVs would be 4.3 pounds (1.94 kilograms) per vehicle. The agency proposed three years leadtime for the head restraints final rule. Since that rule has not been issued yet, the earliest effective date would be September 1, 2006 or MY 2007. Therefore, any weight penalty would be limited to MY 2007.

Ford was the only commenter to suggest that the FMVSS 202 rulemaking might have any impact on CAFE, based on the proposal to require rear head restraints. The company estimated a weight penalty that was based on its view that the FMVSS 202 final rule would require head restraints in some rear seating positions presently not equipped with them. NHTSA notes that the asserted weight penalty would not affect the significant number of vehicles in the light truck fleet that do not have rear seats. Based on the distribution of potential rear seat head restraints across Ford's fleet, we agree that vehicles with rear seats might experience a weight penalty for compliance with FMVSS 202 if rear seat head restraints were required. However, neither the weight increase estimated by Ford nor that estimated by the agency is significant enough to affect Ford's ability to meet the MY 2007 standard.

5. FMVSS 208, Occupant Crash Protection

On May 12, 2000, NHTSA published a final rule (65 FR 30680) amending our

occupant crash protection standard. The requirements of the final rule will be phased-in by increasing percentages during MYs 2005–2007. While only portions of the MY 2005 and MY 2006 fleets will be required to comply, all of the MY 2007 fleet will be required to comply. To comply, manufacturers will have to install air bag sensors, switches, status indicators, and associated electrical equipment. We estimate the average weight gain will be 3.4 pounds (1.54 kilograms).

In Ford's view, significant additional weight would be required to meet the occupant protection requirements. Ford attributed some of this weight to air bag sensors and other equipment. Ford also anticipates additional weight increases as a result of efforts to comply with the planned rulemaking to establish frontal offset crash requirements. Ford did not, however, indicate which portion of the weight penalty it claimed was attributable to the May 2000 final rule, and which might be attributable to the frontal offset crash requirements. Based on our knowledge of the weight of items that would have to be installed to meet the May 2000 final rule, we believe that bulk of the claimed weight penalties for FMVSS 208 are related to the frontal offset crash requirements currently under study. The agency has not yet issued a frontal offset proposal, nor considered the model years to which any new requirements would apply.

6. FMVSS 225, Child Restraint Anchorage Systems

On March 5, 1999, NHTSA published a final rule establishing FMVSS 225, Child Restraint Anchorage Systems, requiring vehicle manufacturers to install child restraint anchorage systems that are standardized and independent of the vehicle seat belts (64 FR 10786). The FEA (February 1999) for FMVSS 225 estimates the additional weight for improved anchorages will be less than 1 pound (0.45 kilogram). Ford believes that, in addition, some of its vehicles will require structural reinforcement to meet anchorage strength requirements in FMVSS 225. Ford alleges that NHTSA significantly underestimated the weight penalties imposed by these child restraint anchorage requirements and claimed that its CAFE efforts would be hampered by this added weight.

We do not believe this FMVSS will adversely affect CAFE performance. Ford's claimed weight penalties appear to assume that all light trucks will require significant additional structure. However, we believe that any need for additional structure will be much more limited than Ford claims. Our estimate is that some additional weight will be necessary, but we do not believe that Ford provided compelling evidence to alter our assessment that the impact of the FMVSS 225 requirements, will impose an inconsequential weight penalty with no adverse CAFE effect.

7. FMVSS 301, Fuel System Integrity

On November 12, 2000, NHTSA published a proposal (65 FR 67693) to amend the fuel system integrity requirements for rear-end and side crashes and resulting fuel leaks. Although a few models (generally in the middle of their production lives) might require heavy additions such as a polymer guard for the bottom of the fuel tank, most would not. Many of the vehicles to be produced for MYs 2005–2007 have anticipated the new requirements and have been designed to comply with them. We believe manufacturers will be able to meet the new requirements through the addition of lightweight items such as flexible filler necks. We estimate the average weight gain for light trucks not currently built to the new requirements to be 0.24 pounds (0.11 kilograms) per vehicle.

8. Cumulative Weight Impacts of the FMVSSs

In total, NHTSA estimates that weight additions necessitated by the FMVSS requirements that will become effective between the MY 2001 fleet and MY 2007 fleet will average about 9.5 pounds per vehicle.

NHTSA examined the changes in safety-related weight, regardless of whether mandatory or voluntary, from the plans submitted in response to the RFC and the NPRM to see if there were changes affecting their fuel economy levels. Only Ford took issue with our estimates of weight penalties and provided enough data for a complete analysis. Taken together, Ford's submissions in response to the RFC and the NPRM estimated weight impacts for complying with FMVSSs ranging from approximately 100 to 200 pounds per vehicle. Ford indicated that these weight impacts could reduce its fuel economy by approximately 0.20 mpg to 0.30 mpg. Our reading of Ford's comments indicates that the bulk of this weight increase is attributable to that company's belief that the agency will require light trucks to meet a frontal offset crash test requirement for FMVSS 208. Ford also attributes a significant weight increase to child restraint anchorage requirements and our current proposal to upgrade tire performance.

The agency agrees that we must consider all of our regulatory programs, as well as those of other agencies, when establishing CAFE standards. We also agree that we should consider anticipated requirements as well as those that have been finalized. Having done so, however, we do not believe that new safety requirements likely to be applied to MYs 2005–2007 necessitate any reduction in the proposed standards. It appears that there is a small increase in safety related weight for FMVSS 225 for MYs 2005 and 2006 and a somewhat larger increase in safety related weight if a final rule incorporating the proposed requirements for FMVSS 202 is promulgated and applies to MY 2007 light trucks. The CAFE penalties for these weight increases are too small to alter the agency's estimates of Ford's capabilities in these years. Further, the rulemaking process will allow for ample opportunities for manufacturers to comment and the agency to consider whether any future rulemakings will in fact be inconsistent with this final rule.

B. Federal Motor Vehicle Emissions Standards

With input from EPA, NHTSA has evaluated the impact of a number of vehicle related emissions standards on fuel economy. In addition, NHTSA's Environmental Assessment examines how the CAFE standards impact air quality by affecting emissions of criteria pollutants. Many of these standards and regulations are currently being implemented through a multi-year phase-in. NHTSA believes there will not be any significant fuel economy impact between the MY 2001 baseline and MY 2007 resulting from federal or state emissions standards or regulations.

The agency's position with regard to the relationship between state laws and our federal fuel economy responsibility was set forth in the NPRM and has not changed. The EPCA statute contains a preemption provision intended to ensure a unified federal program to address motor vehicle fuel economy. As a result of that statute, no state may adopt or enforce any law or regulation relating to fuel economy.

1. Tier 2 Requirements

On February 10, 2000, EPA published a final rule (65 FR 6698) establishing new federal emissions standards for vehicles classified by EPA as passenger cars, light trucks and medium duty vehicles. These new emissions standards are known as Tier 2 standards. The Tier 2 standards marks the first time that the same set of federal emissions standards have been applied to all passenger cars, light trucks, and medium-duty passenger vehicles. Under the Tier 2 standards, light trucks include ''light light-duty trucks'' (or

LLDTs), rated at less than 6000 pounds GVWR and ''heavy light-duty trucks'' (or HLDTs), rated at more than 6000 pounds GVWR. For new passenger cars and light LDTs, the Tier 2 standards phase-in beginning in MY 2004, and are to be fully phased-in by MY 2007. During the phase-in period of MYs 2004–2007, all passenger cars and light LDTs not certified to the primary Tier 2 standards must meet an interim standard equivalent to the current National Low Emission Vehicle (NLEV) standards for light duty vehicles. In addition to establishing new emissions standards for vehicles, the Tier 2 standards also establish limits for the sulfur content of gasoline.

General Motors and Ford very briefly suggested, without explanation, the Tier 2 standards might limit diesel sales. It was unclear whether they were referring to current or advanced diesels. We note that EPA, when issuing the Tier 2 standards, responded to comments its received regarding the impact of the Tier 2 standard and its impact on the Supplemental Federal Test Procedure and concluded that the Tier 2 standards would not adversely affect fuel economy.

2. Onboard Refueling Vapor Recovery

On April 6, 1994, EPA published a final rule (59 FR 16262) establishing requirements controlling vehicle-refueling emissions through the use of onboard refueling vapor recovery (ORVR) vehicle-based systems. These requirements applied to light-duty vehicles beginning in MY 1998, and were phased-in over three model years. The ORVR requirements also apply to light-duty trucks with a gross vehicle weight rating up to 6000 lbs, beginning in MY 2001 and phasing-in over three model years at the same rate as for light-duty vehicles. For light-duty trucks with a gross vehicle weight rating of 6001–8500 lbs, the ORVR requirements first apply in MY 2004 and phase-in over three model years at the same rate as light-duty vehicles.

The ORVR requirements impose a small weight penalty on vehicles as they necessitate the installation of vapor recovery canisters and associated tubing and hardware. In its comments, Honda indicated that it did not agree with the assertion in the NPRM that the ORVR system, which results in fuel vapors being made available for combustion, provides a fuel economy benefit offsetting the weight of the system.

Assuming the correctness of Honda's argument that there are negligible fuel economy benefits from ORVR systems, we note that weight increases attributable to replacing older vapor recovery technology with ORVR compliant systems are not likely to be significant enough to have an impact on fuel economy.

3. Supplemental Federal Test Procedure

The Federal Test Procedure (FTP) contains the test conditions and procedures used by the EPA when conducting new vehicle emissions and fuel economy tests. On October 26, 1996, EPA published a final rule (61 FR 54852) revising the tailpipe emission portions of the Federal Test Procedure (FTP) for light-duty vehicles (LDVs) and light-duty trucks (LDTs). The revision created a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the existing FTP in the representation of aggressive (high speed and/or high acceleration) driving behavior, rapid speed fluctuations, driving behavior following startup, and use of air conditioning. The SFTP also contains requirements designed to more accurately reflect real road forces on the test dynamometer. EPA chose to apply the SFTP requirements to trucks through a phase-in. Light-duty trucks with a gross vehicle weight rating (GVWR) up to 6000 lbs were subject to a three-year phase-in ending in MY 2002. Heavy light-duty trucks, those with a GVWR greater than 6000 lbs but not greater than 8500 lbs, are subject to a phase-in in which 40 percent of each manufacturer's production must meet the SFTP requirements in MY 2002, 80 percent in MY 2003, and 100 percent in MY 2004.

MY 2004 is the final year of the SFTP requirement phase-in for light trucks subject to CAFE standards. Neither Ford nor General Motors indicated in their comments on the MY 2004 CAFE NPRM that the SFTP requirements would have any impact on their ability to meet the MY 2004 standard.

Although DaimlerChrysler has indicated that the changes to the FTP will have a disproportionately negative impact on light truck fuel economy, EPA has determined that the net effect on fuel economy for the recent test procedure changes is near zero. EPA considered the effects of four test changes: single-roll electric dynamometer with full-speed load simulation, elimination of the 10 percent air conditioning load factor, elimination of the 5,500 pound maximum test weight for cars, and improved test equipment. While some changes decreased measured fuel economy, others raised it. The net result was a near zero effect. This determination was based on the total fleet, which is a mix of front wheel drive and rear wheel drive cars and trucks.

Considering light trucks alone is not likely to change that determination. The light truck fleet has a larger mix of rear wheel drive vehicles than the light vehicle fleet. This would lead to a slightly increased effect of the single roll dynamometer and thereby slightly lower measured fuel economy. However, the truck sub-class also has higher road load horsepower than the combined fleet. This would lead to slightly higher effects due to the elimination of the 10 percent air conditioning load and thereby slightly higher measured fuel economy.

Consequently, there is no need to adjust the CAFE standards for these test procedures. The net effect of the combined test procedure changes on the truck sub-class is still expected to be near zero.

4. California Air Resources Board LEV II and Section 177 States

The State of California Low Emission Vehicle II regulations (LEV II) will apply to passenger cars and light trucks in MY 2004. The LEV II amendments restructure the light-duty truck category so that trucks with a gross vehicle weight rating of 8,500 pounds or lower are subject to the same low-emission vehicle standards as passenger cars. LEV II requirements also include more stringent emission standards for passenger car and light-duty truck LEVs and ultra low emission vehicles (ULEVs), and establish phase-in requirements that begin in 2004. During the initial year of the four-year phase-in, the LEV II standards require that 25 percent of production comply.

The agency notes that compliance with increased emission requirements is most often achieved through more sophisticated combustion management. The improvements and refinement in engine controls to achieve this end generally improve fuel efficiency and have a positive impact on fuel economy.

In summary, the agency believes that there will be no impact on fuel economy from emissions standards on light truck fuel economy between the baseline MY 2001 and MY 2007 fleets.

IX. The Need of the Nation To Conserve Energy

EPCA specifically directs the Department to balance the technological and economic challenges with the nation's need to conserve energy. While EPCA grew out of the energy crisis of the 1970s, the United States still faces considerable energy challenges today. Increasingly, U.S. energy consumption has been outstripping U.S. energy

production. This imbalance, if allowed to continue, will inevitably undermine our economy, our standard of living, and our national security. (May 2001 National Energy Policy (NEP) Overview, p. viii)

As was made clear in the first chapter of the NEP, efficient energy use and conservation are important elements of a comprehensive program to address the nation's current energy challenges:

> America's current energy challenges can be met with rapidly improving technology, dedicated leadership, and a comprehensive approach to our energy needs. Our challenge is clear—we must use technology to reduce demand for energy, repair and maintain our energy infrastructure, and increase energy supply. Today, the United States remains the world's undisputed technological leader: but recent events have demonstrated that we have yet to integrate 21st-century technology into an energy plan that is focused on wise energy use, production, efficiency, and conservation.

(Page 1–1)

Conserving energy, especially reducing the nation's dependence on imported petroleum, benefits the nation's efforts to address the energy challenges in several ways. Reducing total petroleum use and reducing petroleum imports decrease our economy's vulnerability to oil price shocks and improves our national security.

Over the long term, the development of advanced fuel cell technology, and an infrastructure to support it, will help achieve significant reductions in foreign oil dependence and stability in the world oil market. For the short term, the continued infusion of hybrid propulsion and advanced diesel vehicles into the U.S. light truck fleet may also contribute to reduced dependence on petroleum. Since the NPRM was issued, companies have announced enhanced efforts in this area. We believe it is possible, with substantial marketing and public policy support, to create a vibrant and efficient market for vehicles with advanced technologies by MY 2007.

The importance of improving the fuel economy of light trucks is evident from the effect that those vehicles are having on the overall fuel economy of light vehicles. As was noted in the NEP:

> Despite the adoption of more efficient transportation technologies, average fuel economy for passenger vehicles has remained relatively flat for ten years and is, in fact, at a twenty year low, in large part due to the growth and popularity of low fuel economy pickup trucks, van and sport utility vehicles.

(p. 4–9)

We have concluded that the increases to the light truck CAFE standards adopted in this final rule will contribute appropriately to energy conservation and the comprehensive energy program set forth in NEP. In assessing the impact of the standards, we accounted for the increased vehicle mileage that accompanies reduced costs to consumers associated with greater fuel efficiency and have concluded that the final rule will lead to considerable fuel savings. While increasing fuel economy without increasing the cost of fuel will lead to some additional vehicle travel, the overall impact on fuel conservation remains positive.

We acknowledge that, despite the CAFE program, the United States' dependence on foreign oil and petroleum consumption has increased in recent years. Nonetheless, data suggest that past fuel economy increases have had a major impact on U.S. petroleum use. The NAS determined that if the fuel efficiency of the vehicle fleet had not improved since the 1970s, the U.S. gasoline consumption and oil imports would be about 2.8 million barrels per day higher than they are today. Increasing fuel economy by 10 percent will produce an estimated 8 percent reduction in fuel consumption. Increases in the fuel economy of new vehicles eventually raise the fuel efficiency of all vehicles as older cars and trucks are scrapped.

Further, we do not believe that the increases in the light truck CAFE standards applicable to the 2005–2007 MYs will unduly lead to so-called ''energy waste.'' This theory, presented in comments responding to our Request for Comments and NPRM, rests on the notion that efforts to reduce energy use can result in negative economic effects from losses in product values, profits and worker incomes. As discussed above, the agency has determined that the CAFE standards can be achieved without significant adverse economic or safety consequences. Within the bounds of technological feasibility and economic practicability, the final rule will, in fact, enhance ''energy efficiency'' without adverse ancillary effects.

X. Balancing of Statutory Factors

In determining the maximum feasible average fuel economy levels for the MY 2005–07 standards, we have specifically considered all four of the factors specified by the statute—technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. We have also specifically weighed the benefits to the nation of higher average fuel economy standards against the difficulties of individual manufacturers.

We have determined that the established CAFE standards are the maximum feasible levels for each of the model years. Although the MY 2007 standard is a challenging one, the additional lead time available and the likelihood of continuing technological advancement makes a CAFE standard of 22.2 mpg technologically feasible and economically practicable in light of the nation's need to conserve energy and to reduce our dependence on foreign oil. The Volpe analysis confirms that these standards are cost-beneficial and technologically feasible. CAFE standards above those established in this rule tip the balance and render it unlikely that the standards could be achieved without significantly negative economic consequences.

XI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The 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 entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule is economically significant as adopted. Accordingly, OMB reviewed it under Executive Order 12866. The rule is also significant within the meaning of the Department of Transportation's Regulatory Policies and Procedures.

Because the rule is economically significant, the agency has prepared an FEA and placed it in the docket and on the agency's Web site.

Costs: We estimated costs based on the specific technologies that were

applied to improve each manufacturer's fuel economy from the level of the manufacturer's plans up to the level of the final rule. Table 1 provides those cost estimates on an average per vehicle basis and Table 2 provides those estimates on a fleet-wide basis.

Benefits: We also determined benefits from the level of the manufacturer's plans up to the level of the final rule. The benefits are derived mainly from fuel savings over the lifetime of the vehicle. However, the benefits also include the results of a number of additional analyses that relate to the value of oil import externalities, criteria pollutant emissions, and a variety of beneficial transportation impacts brought about by the ''rebound effect''. Table 1 provides the benefit estimates on a per vehicle basis and Table 2 provides them on a fleet-wide basis.

Net Benefits: We compared the costs and benefits and concluded that the fuel economy standards are cost beneficial on a societal basis.

Safety Impacts: The agency believes the manufacturers can meet the fuel economy levels without weight reductions. Thus, there need not be a safety impact due to reducing weights for light trucks.

Table 3 provides the level of the final rule, an adjusted baseline weighted average fuel economy based on the manufacturers' product plans, and a weighted average fuel economy for the fleet after assuming increases in technology to bring the manufacturers' average fuel economy up to the level of the standard. Some manufacturers already (in MY 2001) exceed the standard levels, thus the weighted average exceeds the level of the final rule. Finally, Table 3 shows the lifetime fuel savings in millions of gallons.

TABLE 1.—INCREMENTAL COST AND SOCIAL BENEFIT ANALYSIS PER AVERAGE VEHICLE—OVER ITS LIFETIME

[In year 2000 dollars]

Model year	Costs	Benefits	Net benefits
2005	$22	$29	$7
2006	67	83	16
2007	106	121	15

TABLE 2.—INCREMENTAL TOTAL COST BENEFIT ANALYSIS OVER THE LIFETIME OF THE FLEET

[In millions of year 2000 dollars]

Model year	Costs	Benefits	Net benefits
2005	$170	$218	$48
2006	537	645	108
2007	862	955	93

TABLE 3.—SAVINGS IN MILLIONS OF GALLONS OF FUEL

Model year	Proposed fuel economy standard (mpg)	Adjusted baseline fuel economy level based on manufacturer plans (mpg)	Estimated fuel economy level with technology additions needed to meet standard (mpg)	Lifetime fuel savings (in millions of gallons)—undiscounted	Lifetime fuel savings—present discounted value
2005	21.0	21.13	21.29	432	263
2006	21.6	21.31	21.78	1,273	774
2007	22.2	21.60	22.31	1,892	1,151

B. National Environmental Policy Act

Consistent with the requirements of the National Environmental Policy Act and the regulations of the Council on Environmental Quality, the agency has prepared a final Environmental Assessment for this action, responding to comments to the draft Environmental Assessment, and has placed this analysis in the docket. Based on the final Environmental Assessment, the agency has concluded that the action will not have a significant effect on the quality of the human environment.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that there are not any single stage light truck manufacturers within the United States with 1,000 or fewer employees.

D. Executive Order 13132, Federalism

Executive Order 13132 requires NHTSA 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.'' Executive Order 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, NHTSA 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 NHTSA consults with State and local officials early in the process of developing the regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. The statute under which the CAFE program is administered clearly says that states may not adopt or enforce any law or regulation that relates to fuel economy standards. 49 U.S.C. 32919(a). Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. The Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA 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 NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than $100 million annually, but it will result in the expenditure of that magnitude by vehicle manufacturers and/or their suppliers. In promulgating this rule, NHTSA considered whether average fuel economy standards lower and higher than those adopted would be appropriate. NHTSA has concluded that the standards established by this final rule are the maximum feasible standards for the light truck fleet for MYs 2005–2007, based on a balancing of the statutory considerations.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no new information collection requirements in this final rule.

G. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA 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 considered by us.

This rule does not have a disproportionate effect on children. The primary effect of this rule is to conserve energy resources by setting CAFE standards for light trucks.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [13] in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards for U.S. fuel economy. Therefore, setting this final rule does not involve the use of any voluntary standards.

I. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the planned rule and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

The rule establishes light truck fuel economy standards that will reduce the consumption of petroleum and will not have any adverse energy effects. Accordingly, this rulemaking action is not designated as a significant energy action.

J. Department of Energy Review

In accordance with 49 U.S.C. 32902(j), we submitted this rule to the Department of Energy for review. That Department did not make any comments that we have not addressed.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 533

Energy conservation, Motor vehicles.

PART 533—[AMENDED]

■ In consideration of the foregoing, 49 CFR part 533 is amended as follows:

■ 1. The authority citation for part 533 continues to read as follows:

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

■ 2. Section 533.5 is amended by revising Table IV in paragraph (a) to read as follows:

§ 533.5 Requirements.

(a) * * *

[13] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specifications and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

TABLE IV

Model year	Standard
1996	20.7
1997	20.7
1998	20.7
1999	20.7
2000	20.7
2001	20.7

TABLE IV—Continued

Model year	Standard
2002	20.7
2003	20.7
2004	20.7
2005	21.0
2006	21.6
2007	22.2

* * * * *

Issued on: March 31, 2003.

Jeffrey W. Runge,

Administrator.

[FR Doc. 03–8222 Filed 4–1–03; 3:41 pm]

BILLING CODE 4910–59–P

Federal Register

Monday,
April 7, 2003

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2002; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4767–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2002

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from October 1, 2002, through December 31, 2002.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on October 1, 2002, and ending on December 31, 2002.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500; telephone (202) 708–3055 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver-grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from October 1, 2002, through December 31, 2002. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in title 24 of the Code of Federal Regulations and that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver-grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred during January 1, 2003, through March 31, 2003.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: March 27, 2003.

Alphonso Jackson,

Deputy Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2002, Through December 31, 2002

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulations:* 24 CFR 574.625(b)(1).

Project/Activity: A recipient of grant funds from HUD's Housing Opportunities for Persons with AIDS (HOPWA) requested a waiver of the conflict of interest disclosure provision.

Nature of Requirement: This provision requires the grantee to disclose the nature of the conflict of interest, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made. This provision requires the grantee to publish the name of the person seeking the assistance and confidential health records regarding the individual.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: October 28, 2002.

Reasons Waived: HUD determined that there was good cause for granting the waiver to protect the name of the person seeking the assistance and the confidential medical information regarding the person seeking assistance. However, HUD did not waive the other factors/requirements in 24 CFR 574.625(b)(1) that must be considered prior to granting the exception. In addition, Section 7(q)(3) of the Department of Housing and Urban Development Act requires HUD to

publish notice in the **Federal Register** of all waivers of regulations approved by HUD. Because of the possibility that the publication of this waiver could be used to identify the affected individual, HUD will publish the waiver request without identifying the grantee.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 576.35(a)(1), 24 CFR 576.35(a)(2)(i), 24 CFR 576.35(a)(2)(ii).

Project/Activity: The city of Clinton, IA, requested a waiver of the provisions governing the obligation and expenditure of Emergency Shelter Grant (ESG) funds.

Nature of Requirement: Section 576.35(a)(1) requires each state to make available to its state recipients all emergency shelter grant amounts that it was allocated within 65 days of the date of the grant award by HUD. Funds set aside by a state for homeless prevention activities must be made available to state recipients within 180 days of the grant award. Section 576.35 (a)(2)(i) requires each state recipient of ESG funds to have its grant funds obligated within 180 days of the date on which the state made the grant amounts available to state recipients. In the case of grants for homeless prevention activities, state recipients are required to obligate grant amounts within 30 days of the date on which the state has made the grant amount available. Section 576.35(a)(2)(ii) requires each state recipient to spend all of its grant amounts within 24 months of the date on which the state made the grant amounts available to the state recipient. In the case of grants for homeless prevention activities, state recipients must spend such sums within 180 days of the date on which the state made the grant amount available.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: November 22, 2002.

Reasons Waived: The state suspended the city of Clinton's receipt of ESG funding for Fiscal Year (FY) 2001 and FY 2002 to prevent any reoccurrences of violations by the Victory Center Rescue Mission. This delayed the program until HUD could determine that the recipient could continue to receive ESG funding with the state's continued oversight.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 582.105(e).

Project/Activity: Alameda County, CA, requested a waiver of the eight percent administrative cap for its 1996 Shelter Plus Care grant.

Nature of Requirement: Section 582.105(e) allows the grantee to expend up to eight percent of the grant amount to pay the costs of administering the housing assistance.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: November 18, 2002.

Reasons Waived: The waiver is granted because the county will be able to serve the same number of households that was originally anticipated for an additional period of time with no increase in funds. The county will be allowed to expend an additional five percent for a total of thirteen percent of its grant for administrative costs. The grant was expected to assist 35 households at a time. However, the grant has assisted approximately 63 households over the course of the grant. The county intends to serve the same number of households that was originally anticipated for an additional period of time with no increase in funds.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waivers actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Northstar Apartments, Raymondville, TX; Project Number: 115–35425.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and Federal Housing Administration (FHA) insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 22, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased the Government National Mortgage Association (GNMA) mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the San Antonio Multifamily Program Center to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Presbyterian Villages North, Pontiac, MI; Project Number: 044–35566.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 23, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Detroit Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Iodent Lofts, Detroit, MI; Project Number: 044–32041.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 29, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months,

resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Detroit Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Ashley Courts at Cascade Apartments, Phase III, Atlanta, GA; Project Number: 061–35545.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 14, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Atlanta Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Springdale Estates, Austin, TX; Project Number: 115–35427.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 25, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Fort Worth Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Greenlaw Renaissance Apartments, Memphis, TN; Project Number: 081–35238.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 11, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Nashville Multifamily Program Center to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: The Village at Carver, Phase II, Atlanta, GA; Project Number: 061–35552.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 15, 2002.

Reason Waived: The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Atlanta Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
06235361	Angel Apartments	AL
05935106	Augustine Park Apartments	LA
08435239	Brookfield Village	MO
05235336	Burton Manor	MD
04335257	Calumet/Horizon	OH
01436041	Cayuga Village	NY
01257080	Concourse Plaza	MD
06235362	Cornelius Apartments	AL
06135562	Dodge Court Apartments	GA
08235225	Eastview Terrace Apartment	AR
04635519	Eddy's Apartments	OH
01335108	Genesee Towers	NY
05435455	Glenfield Apartments	SC
01257164	Jerome Terrace Apartments	NY
04235362	Lakeview Estates	OH
10935049	LaPrete Apartments	WY

FHA No.	Project name	State
03135177	Lexington Manor	NJ
08735120	Lynnridge Apartments	TN
01257121	Maria Estela I	NY
06535314	Meadowbrook Apartments	MS
04635543	Mt. Carmel (aka Lebanon Village aka Greentree)	OH
04235302	Nela Manor	OH
06535330	New Main Apartments	MS
05435389	Newberry Arms Apartments	SC
12235452	Palmdale East Q	CA
04232011	Park Lane Villa	OH
01257167	Parkview Residence	NY
04735129	Peterson Apartments	MI
05110508	Pinebrook Village Apartments	VA
01235403	Plaza Apartments	NY
11535233	Poesta Creek Apartments	TX
08535314	Portageville Apartments	MO
00035341	Southern Hills Apartments	DC
04235504	Southwesterly Apartments	OH
14335075	Virginia Terrace	CA
04235298	Vistula Heritage Village	OH

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 4, 2002.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410; telephone (202) 708–0001.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
06235310	Birmingham Towers	AL
06435015	Capital City South Apartments.	LA
05235337	Cedar Hill Apartments	MD
01435043	Cedargrove Heights Apartments.	NY
07335407	Gary NSA I & II	IN
08435212	Hyde Park Apartments	MO
11235308	Longview Square Apartments.	TX
03335249	New Brighton Elderly Apartments.	PA
01335086	Northcliffe Apartments	NY
06735235	Oceanside Estates	FL
05935200	Parish Square Apartments.	LA
01257156	Rochester Manor Apartments.	NY
02435036	Round Barn Apartments	VT
11735155	Southgate Village	OK
08435196	Sullivan Hall	MO
04235286	University Towers	OH
11738005	Wesley Village	OK
05335296	Yadkin House	NC

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 7, 2002.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410; telephone (202) 708–0001.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
01335078	Brick School Terrace (aka 16th Apts.).	NY
08535299	Cabool Apartments	MO
04235356	Center Towers	OH
02435040	Chestnut Place	ME
06102006	Cumberland Oaks Apartments.	GA
12235514	Foothill Terrace	CA
08535300	Kennett Apartments	MO
08435229	Lawndale Heights Apartments.	MO
06535334	Moorhead Manor Apartments.	MS
04235354	Newton Manor	OH
08435240	North Valley Townhomes.	MO
01335076	Ogden Mills Apartments (10th Apts.).	NY
06535333	Pendleton Square	MS
04635532	The Biltmore	OH
02335239	The Weldon	MA
08335238	Tug Fork Apartments	KY
12535081	Walnut Gardens	NV
08435203	Woodlen Place Apartments.	MO

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 11, 2002.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410; telephone (202) 708–0001.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: AIDSCARE, Incorporated, Chicago, IL; Project Number: 071–HD119/IL06–Q001–005.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: October 15, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Kane Cook Homes, Yorkville, IL; Project Number: 071–HD117/Il06–Q001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: October 16, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Millenium Place, Amherst, NY; Project Number: 014–HD093/NY06–Q001–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: October 16, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Harvard Square, Irvine, CA; Project Number: 143–HD011/CA43–Q001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: October 29, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Seneca County Volunteers of America (VOA), Tiffin, OH; Project Number: 042–EE120/OH12–S001–004.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: November 6, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Bridgeway Apartments, Phase II, Picayune, MS; Project Number: 065–HD025/MS26–Q001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: November 6, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Belleville Non-Profit Housing, Belleville, MI; Project Number: 044–EE077/MI28–S011–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: November 7, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Saint Teresa of Avila Senior Housing, Brooklyn, NY; Project Number: 012–EE300/NY36–S001–015.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: November 25, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: AHEPA 23–III Apartments, Incorporated, Montgomery, AL; Project Number: 062–EE046/AL09–S001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 25, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Hillsborough County VOA Living Center III, Tampa, FL; Project Number: 067–HD080/FL29–Q001–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 9, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Crossroads Housing, Onawa, IA; Project Number: 074–HD023/IA05–Q011–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 10, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Young Men's Christian Association (YMCA) of Metropolitan Chicago, Chicago, IL; Project Number: 071–EE141/IL06–S981–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 11, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: New Visions, Louisville, KY; Project Number: 083–HD060/KY36–Q001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: The sponsor obtained a grant from the city of Louisville in the amount of $100,000. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CRF 891.100(d).

Project/Activity: Geneva Avenue Elderly Housing, Dorchester, MA; Project Number: 023–EE110/MA06–S991–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 24, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d). and 24 CFR 891.165.

Project/Activity: Dogwood Terrace, Florence, AL; Project Number: 062–HD043/AL09–Q991–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed for the firm commitment to be issued.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Oxford Trace Apartments, San Antonio, TX; Project Number: 115–HD028/TX59–Q991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 19, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. In addition, the long-time president of the nonprofit resigned, a new builder was hired, and additional time was needed to obtain building permits. Further, the city of San Antonio required a fairly extensive and costly drainage system surrounding the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: VOA Pineville, Pineville, LA; Project Number: 064–HD055/LA48–Q001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 25, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed for the firm commitment to be reprocessed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Bevins Court, Lakeport, CA; Project Number: 121–HD069/CA39–Q991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 20, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. In addition, project experienced delays with the city of Lakeport in the local design review and approval process.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891(d) and 24 CFR 891.165.

Project/Activity: Elmwood House II, Evesham Township, NJ; Project Number: 035–EE043/NJ39–S001–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed for the owner to attempt to locate additional funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Rotary Village II, Del Rio, TX; Project Number: 115–EE057/TX59–S001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 24, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed for the owner to attempt to locate additional funds and to find a qualified contractor.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Columbia Gardens, Caldwell, ID; Project Number: 124–HD008/ID16–Q001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed to obtain clearance from the Advisory Council on Historic Preservation (SHPO) in the state of Idaho.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Joseph's Medical Center Senior Housing, Yonkers, NY; Project Number: 012–EE265/NY36–S991–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 2, 2002.

Reason Waived: The local approval process delayed the completion of the working drawings and additional time was needed for HUD to complete the processing of the firm commitment application.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mount St. Mary's, Tonawanda, NY; Project Number: 014–EE198/NY06–S001–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 10, 2002.

Reason Waived: The sponsor needed more time to secure additional funding, submit the firm commitment application, and to proceed to initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Laurel Commons, Laurel, DE; Project Number: 032–EE009/DE26–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 22, 2002.

Reason Waived: The project was delayed because additional time was needed for the Town of Laurel to approve the final subdivision of the project site prior to initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: George and Lois Brown Estates, Henderson, NV; Project Number: 125–HD067/NV25–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 29, 2002.

Reason Waived: Before issuing a firm commitment and proceeding with initial closing, additional time was needed to review and revise the pro-forma policy of title insurance, survey, surveyor's report, and architect agreement.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Orange County Two-Site Project, Town of Hamptonbur, NY; Project Number: 012–HD091/NY36–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 29, 2002.

Reason Waived: The owner needed additional time to obtain a building permit.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: La Playa Apartments, San Francisco, CA; Project Number: 121–HD065/CA39–Q981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 29, 2002.

Reason Waived: The project experienced delays because additional time was needed to resolve a protest brief, which was filed with the city and courts of San Francisco by the Ocean Beach Condominiums Homeowners Association.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: A. Kornegay Senior Housing, New York, NY; Project Number: 012–EE303/NY36–S001–018.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 29, 2002.

Reason Waived: The project encountered delays while undergoing the local approval process.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Monarch Housing, Santa Cruz, CA; Project Number: 121–HD071/CA39–Q991–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 30, 2002.

Reason Waived: HUD needed additional time to process the initial closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hale O Mana'o Lana Hou II, Wailuku, Maui, HI; Project Number: 140–HD015/HI110–Q961–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 4, 2002.

Reason Waived: The project incurred delays because additional time was needed to issue the firm commitment, review the initial closing documents, and close the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cottonwood Manor VI, Cottonwood, AZ; Project Number: 123–EE069/AZ20–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 4, 2002.

Reason Waived: The sponsor needed additional time to secure additional funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Nashville Supportive Housing Development, Nashville-Davidson, TN; Project Number: 086–HD016/TN43–Q971–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 4, 2002.

Reason Waived: The sponsor needed additional time to obtain additional funds from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Brandon Apartments, Brandon, Hillsborough County, FL; Project Number: 067–HD066/FL29–Q991–011.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The sponsor experienced multiple delays due to site control problems, design issues, and cost overruns. Additional time was needed to prepare and review closing documents and to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Stephen's County Village, Gulfport, MS; Project Number: 065–EE031/MS26–S001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The project experienced delays due to the removal of one of the sponsors, and the subsequent loss of the site. Additional time was needed to allow the project's owner to prepare and submit the firm commitment application and for HUD to complete the technical processing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: OBED Apartments, North Providence, RI; Project Number: 016–HD025/RI43–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The project experienced delays due to litigation involving a zoning variance.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: ProCAP Housing, Providence, RI; Project Number: 016–HD030/RI43–Q991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The project experienced delays due to a site change. Delays were also experienced because of the lengthy process for acquiring sites from the Providence Redevelopment Authority.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Incorporated, Birmingham, AL; Project Number: 062–HD041/AL09–Q981–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: Additional time was needed for HUD to process the firm commitment application in order for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pelican Lake Housing Corporation, Eagle River, WI; Project Number: 075–HD066/WI39–Q001–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 6, 2002.

Reason Waived: The project experienced delays due to the need to redesign the building bringing the project costs within the capital advance budget. Additional time was needed to pursue fund raising activities to cover budget shortfalls.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ada S. McKinley IV, Chicago, IL; Project Number: 071–HD110/IL06–Q981–007.

Nature of Requirement: Section 891.165 provides that the duration of

the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 14, 2002.

Reason Waived: Additional time was needed for the receipt and processing of the firm commitment application, for issuance of the firm commitment, and for the project to proceed to initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Providence Gamelin House, Seattle, WA; Project Number: 127–EE028/WA19–S001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 25, 2002.

Reason Waived: The project experienced delays due to litigation and environmental issues beyond the sponsor's control.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pensdale Apartments (a/k/a 4200 Mitchell Street), Philadelphia, PA; Project Number: 034–EE100/PA26–S991–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 25, 2002.

Reason Waived: The project experienced delays due to the timing and execution of the relocation of the remaining commercial tenants.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ghost Creek Housing, River Falls, WI; Project Number: 075–HD067/WI39–Q001–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 26, 2002.

Reason Waived: The project was delayed due to litigation involving a zoning variance for the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000

• *Regulation:* 24 CFR 891.165.

Project/Activity: Coalport Senior Housing, Coalport, PA; Project Number: 033–EE102/PA28–S991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 27, 2002.

Reason Waived: The sponsor needed more time to obtain additional financing. The project experienced delays because results of the test (soils) borings needed to be obtained.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Teresa of Avila Senior Housing, Brooklyn, NY; Project Number: 012–EE300/NY36–S001–015.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 27, 2002.

Reason Waived: The owner needed additional time to obtain local approval for releasing a portion of a larger parcel of land owned by the sponsor.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Morgan-Trevathan Apartments, Benton, KY; Project Number: 083–EE074/KY36–S001–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 2, 2002.

Reason Waived: The sponsor/owner needed additional time to make revisions to the firm commitment application and to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Village Supervised Apartments, Hamilton Township, Atlantic County, NJ; Project Number: 035–HD034/NJ39–Q961–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 2, 2002.

Reason Waived: The project incurred delays due to a site change required in order for the project to comply with accessibility requirements.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Iberia Place, New Iberia, LA; Project Number: 064–HD042/LA48–Q981–001.

Nature of Requirement: Section 891.165 provides that the duration of

the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 2, 2002.

Reason Waived: Additional time is needed for HUD to process the firm commitment application in order for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Myrtle Davis Senior Complex, Milwaukee, WI; Project Number: 074–EE095/WI39–S001–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 3, 2002.

Reason Waived: The owner needed additional time to resolve issues with the general contractor and to prepare the initial closing documents once the firm commitment was issued.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Presbyterian Home at Stafford, Stafford Township, NJ; Project Number: 035–EE037/NJ39–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 4, 2002.

Reason Waived: The project has experienced delays due to numerous state and local reviews required to obtain local permits.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Garden Grove Apartments, Milwaukee, WI; Project Number: 075–HD062/WI39–Q991–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 9, 2002.

Reason Waived: The sponsor needed additional time to resolve problems with the design of the building. Additional time was also needed to assemble the initial closing documents once the firm commitment was issued.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: JoMar of Zion, Oshkosh, WI; Project Number: 075–EE096/WI39–S001–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 9, 2002.

Reason Waived: The sponsor needed additional time to assemble the initial closing documents once the firm commitment was issued.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Fuller Gardens, San Leandro, CA; Project Number: 121–HD073/CA39–Q001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 9, 2002.

Reason Waived: The project experienced delays because the owner needed additional time to resolve language associated with the mortgage note and deed of trust.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Olympian Village II, Beloit, WI; Project Number: 075–EE099/WI39–S001–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 9, 2002.

Reason Waived: The sponsor needed additional time to assemble the initial closing documents once the firm commitment was issued.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Connection, Incorporated (Home for the Brave), New Haven, CT; Project Number: 017–HD028–CT26–Q001–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: The sponsor/owner needed additional time to obtain the necessary gap financing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Luther Ridge, Middletown, CT; Project Number: 017–EE053/CT26–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of

the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: The project shares a site and building with a project financed by the state of Connecticut. The owner needs additional time to find a contractor that meets both Section 202 and Connecticut state requirements.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Millennium Cudahy, Cudahy, WI; Project Number: 075–EE097/WI39–S001–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: HUD discovered problems with the owner's board and development team that had to be resolved. The sponsor/owner needed additional time to assemble closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Geneva Avenue Elderly Housing, Dorchester, MA; Project Number: 023–EE110/MA06–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 18, 2002.

Reason Waived: The project experienced delays because the owner needed to revise the plans to include an additional elevator to accommodate the residents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Millennium Janesville I, Janesville, WI; Project Number: 075–EE100/WI39–S001–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 20, 2002.

Reason Waived: HUD discovered problems with the owner's board and development team that had to be resolved. The sponsor/owner needed additional time to assemble closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pathways, Greenwich, CT; CA, Project Number: 017–HD022/CT26–Q981–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 24, 2002.

Reason Waived: The project experienced delays due to litigation.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: ASI-Jackson County, Medford, OR; Project Number: 126–HD028/OR16–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 24, 2002.

Reason Waived: The owner needed additional time before the revised Davis-Bacon wage rates were issued. Also, additional time was needed for the contractor to re-bid the subcontractor work, and for submission of a revised cost breakdown.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Andrews of Jennings Phase II Apartments, Jennings, MO; Project Number: 085–EE049/MO36–S001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The project had incurred delays while waiting for the partial release of land from St. Andrews of Jennings Phase I to be approved.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: TELACU-Pico Rivera, Pico Rivera, CA; Project Number: 122–EE170/CA16–S001–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: HUD needed additional time to review the initial closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Villa Seton, Port St. Lucie, FL; Project Number: 067–EE107/FL29–S001–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The sponsor needed additional time to redesign the project and re-bid the construction contract in order to reduce project costs.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hunterdon Consumer Home, East Amwell, NJ; Project Number: 031–HD121/NJ39–Q001–012.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The sponsor had to locate an alternate site. The historical preservation determination was not received until July 2002.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Roselawn Village Apartments, Minneapolis, MN; Project Number: 092–HD053/MN46–Q001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The sponsor needed to obtain letters of assurance from the Minnesota Pollution Control Agency concerning the risk of the low-level ground water contamination. In addition, the project experienced delays while testing was being performed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Skyline Apartments, Napa, CA; Project Number: 121–HD074/CA39–Q001–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The project experienced delays due to extensive negotiations with the state on the terms of the lease agreement.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Bakersfield Senior Housing, Bakersfield, CA; Project Number: 122–EE164/CA16–S001–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The owner needed additional time to reduce the cost of the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cantebria Senior Housing, Encinitas, CA; Project Number: 129–EE021/CA33–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 27, 2002.

Reason Waived: The project experienced delays because additional time was needed for the secondary financing documents to be revised and reviewed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Loretta Heritage Apartments, Syracuse, NY; Project Number: 014–HD084/NY06–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 30, 2002.

Reason Waived: The project experienced delays because additional time was needed for the owner to resolve a water pressure problem with the city.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.410(c).

Project/Activity: Henderson School Apartments, Henderson, NY; Project Number: 014–EE033.

Nature of Requirement: Section 891.410 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income elderly persons; that is, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 8, 2002.

Reason Waived: The Buffalo Multifamily Hub requested permission to waive the age requirements of the subject property. The owner/management agent of the subject project has requested permission to waive the

elderly and low-income requirements to alleviate the current occupancy and financial problems at the property. The property will be allowed to rent to the non-elderly between the ages of 55 and 62 years and allow the applicants to meet the low-income eligibility requirements. Providing for a waiver to the elderly and low-income restrictions will allow the owner additional flexibility to rent vacant units. The owner will have the flexibility to offer units to the non-elderly, low-income applicants, and therefore, will be able to achieve full occupancy and the project will not fail. This waiver is effective for one year from date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone (202) 708–3730.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waivers actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Waltham Housing Authority (WHA), Waltham, MA; The WHA has requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a disabled housing choice voucher program participant.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR part 8.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 4, 2002.

Reason Waived: Approval of the waiver was granted to allow a disabled housing choice voucher participant to lease a unit large enough to allow movement with the motorized scooter or wheelchair in all the rooms. The kitchen appliances are low enough to be accessed and parking will be provided in front of her unit.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Brookline Housing Authority (BHA), Brookline, MA; The BHA has requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a disabled housing choice voucher program participant. The participant is thirty-four years old and suffers from mental retardation and cerebral palsy.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR part 8.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 10, 2002.

Reason Waived: Approval of the waiver was granted to allow a disabled housing choice voucher participant to lease a unit with on-site supervision and assistance with living activities, without which she would not be able to live independently.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Santa Fe Civic Housing Authority (SFCHA), Santa Fe, NM; The SFCHA has requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a disabled housing choice voucher program participant. The participant has chronic disorders and chemical sensitivities that are expected to last indefinitely.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR part 8.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 10, 2002.

Reason Waived: Approval of the waiver was granted to allow a disabled housing choice voucher participant to lease a unit that will accommodate the individual's disabilities.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Brookline Housing Authority (BHA), Brookline, MA; The BHA has requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for disabled housing choice voucher program participants. The participants require the support of a personal care assistant to enable them to live independently.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR part 8.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 27, 2002.

Reason Waived: Approval of the waiver was granted to allow a disabled housing choice voucher participant to lease a unit with on-site supervision and assistance with living activities because the participant cannot live independently.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Massachusetts Department of Housing and Community Development (MDHCD), Boston, MA; Project-Based Assistance (PBA) Program. The MDHCD has requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a disabled housing choice voucher program participant.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR part 8.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 19, 2002.

Reason Waived: Approval of the waiver was granted to allow a disabled

housing choice voucher participant to lease his current unit due to his maladies and the medication he takes. His doctors and counselors feel that moving from his current unit would be a physical and emotional hardship on him because he relies on his neighbors to drive him to doctor appointments and provide meals and emergency medical help. Without his neighbors' assistance, he is not able to live independently.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR, Section 983.7(b)(1).

Project/Activity: Western Piedmont Council of Governments (WPCG), Hickory, NC; The WPCG requested a waiver to the requirement that prohibits a public housing agency from attaching project-based assistance under the Housing Choice Voucher program to housing for which construction started before an agreement to enter into a housing assistance payments (AHAP) contract was executed for Millside Manor, a 28-unit new construction elderly project.

Nature of Requirement: Section 983.7(b)(1) prohibits a project from receiving project-based assistance where construction began before the execution of an AHAP contract.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 27, 2002.

Reason Waived: The WPCG inadvertently failed to execute an AHAP contract. The regulation was waived since all of the regulatory requirements of the AHAP contract had been met and it appeared that the owner and the PHA operated in good faith. Accordingly, HUD authorized the WPCG to enter into an AHAP contract.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Fort Wayne Housing Authority (FWHA), Fort Wayne, IN; The FWHA requested a waiver of competitive selection of owner proposals.

Nature of Requirement: Regulations at Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 15, 2002.

Reason Waived: Competitive selection was waived since the owners of McMillan Park had already gone through a competitive selection. McMillan Park was awarded low-income housing tax credits through a competitive process conducted by the state of Indiana.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: St. Paul Public Housing Agency (SPPHA), St. Paul, MN; Project-Based Program.

Nature of Requirement: Section 983.51 require competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2002.

Reason Waived: Approval of the waiver was granted because the project had already gone through a competitive selection process for funding.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

Project/Activity: Chicago Housing Authority (CHA), Chicago, IL. The CHA requested a waiver of competitive selection of owner proposals and an exception to the initial guidance to permit it to attach PBA to Hearts United III that will be located in three adjoining census tracts with poverty rates that exceed 20 percent.

Nature of Requirement: Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 7, 2002.

Reason Waived: Competitive selection was waived since the project underwent a competitive selection process by the state of Illinois for Low-Income Housing Tax Credits, as well as one by the city of Chicago's Department of Housing for city-owned land. Hearts United III is in the Grand Boulevard community and within the 43rd Street—Cottage Grove Redevelopment Area, designated as such in 1998 by the city of Chicago Department of Planning and the City Council. The goals of a designated redevelopment area are to support the development of a mixed-income community through residential, commercial and related development. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.255(b).

Project/Activity: Rochester New York Housing Authority (RHA), Rochester, NY; Project-Based Program.

Nature of Requirement: Section 983.255(b) requires HUD approval for a special adjustment of the rent to an owner in the PBA program if the adjustment reflects increases in the actual and necessary cost of owning and maintaining the contract unit.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2002.

Reason Waived: Approval of the waiver was granted because there was a substantial and general increase in property insurance in suburban Monroe County due to the terrorist attacks of September 11, 2001.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public

Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 1000.214.

Project/Activity: The submission of the Indian Housing Plan (IHP) by the Hydaburg Cooperative Association (Hydaburg, Alaska) for Fiscal Year (FY) 2002 funding made available under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

Nature of Requirement: Section 1000.214 establishes a July 1st deadline for the submission of an IHP.

Reason Waived: The Area Office of Native American Programs (ONAP) indicated that the 2002 IHP was received before the July 1st deadline and advised the Tribal Council that the plan was received. When it was discovered that the Association's IHP had not been received by ONAP, the regulatory due date had passed.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 3, 2002.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone: (303) 675–1625.

• *Regulation:* 24 CFR 1000.336(b).

Project/Activity: Request to Waive the Regulatory Deadline for Submitting a Census Challenge to the data to be used to compute the Ute Indian Tribe's (Ft. Duchesne, Utah) FY 2003 Indian Housing Block Grant Allocation.

Nature of Requirement: An Indian tribe or tribally designated housing entity (TDHE) that has data in its possession that it contends are more accurate than data contained in the U.S. Decennial Census, and the data were collected in a manner acceptable to HUD, may submit the data and proper documentation to HUD.

Reason Waived: Fires on the Ute Indian Reservation resulted in processing delays at the Tribe's TDHE. In addition, recent changes in the Ute Indian's tribal administration have had a significant impact on the Tribe's TDHE, including reorganization and restructuring, and the capacity to submit a Census Challenge in a timely fashion.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 27, 2002.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone: (303) 675–1625.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

Project/Activity: Housing Authority of the County of Santa Cruz (HACSC), Santa Cruz, CA; The HACSC requested an exception to the initial guidance to permit it to attach PBA to El Centro Apartments that is in a census tract with a poverty rate of 21 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 4, 2002.

Reason Waived: Approval of the exception was granted since the project was in an area that had undergone major renovation since an earthquake in 1989. During the years of reconstruction along Pacific Avenue over $90 million of private investment and $30 million in public funds have been expended. Pacific Avenue is part of the city's redevelopment area as identified in the city's Consolidated Plan for affordable and preserved housing. The housing and commercial activity along Pacific Avenue is consistent with the goal of deconcentration and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: Housing Authority of the City of Atlanta (HACA), Atlanta City, GA; The HACA requested an exception to the initial guidance to permit it to attach PBA to Columbia High Point Estates that is in a census tract with a poverty rate of 29 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: October 31, 2002.

Reason Waived: Approval of the exception was granted since the project will be developed in the Pryor Road Corridor that is a designated redevelopment area as defined in the city's approved Atlanta Southside Redevelopment Plan. Approximately 2000 new rental and homeownership units will be developed in the Pryor Road Corridor over the next five years in addition to new planned commercial, retail, and recreational opportunities. Of the 2000 new units, 690 will be subsidized through tax credits or HUD subsidies; the other 1,310 units will be sold or rented at market rate. The current and planned activities for this redevelopment area are consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: Massachusetts Department of Housing & Community Development (MDHCD), Boston, MA; The MDHCD requested an exception to the initial guidance to permit it to attach PBA to a property located at 1202 Commonwealth Avenue in Boston that is in a census tract with a poverty rate of 32.45 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2002.

Reason Waived: Approval of the exception was granted since the adjusted poverty rate, that takes into consideration (and excludes) the significant number of college students

who reside in the immediate area, is 18.37 percent. The project is also located in the Allston Village Main Streets District as designated by the Department of Neighborhood Development in which $15,876,857 has been invested for economic development, housing preservation, and rental housing development.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: Boston Housing Authority (BHA), Boston, MA; The BHA requested an exception to the initial guidance to permit it to attach 13 PBA units to the Metropolitan. The Metropolitan is a new construction project consisting of 251 units, with 133 rental units (53 market rent and 81 affordable), and 118 ownership units (84 market rent and 34 affordable) in the Chinatown neighborhood of Boston. The current poverty rate according to 1990 census data is 28.53 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2002.

Reason Waived: Approval of the exception was granted because the Department of Neighborhood Development (DND) has worked with the community of Chinatown to sponsor several projects and programs that have worked to deconcentrate poverty and improve the quality of life in this area. Projects include economic development, homebuyer assistance, and rental housing development with a total public assistance of $5,732,250. In addition, within the Chinatown/Theatre District Neighborhood, several large-scale market residential and commercial projects have been completed or scheduled to be completed within the next five years.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477, extension 4069.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

Project/Activity: St. Paul Public Housing Agency (SPPHA), St. Paul, MN; The SPPHA requested an exception to the initial guidance to permit it to attach PBA to a 71-unit single-room occupancy facility owned by Catholic Charities in a census tract with a poverty rate of 37 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2002.

Reason Waived: Approval of the exception was granted because Guild Hall (also known as St. Christopher Place Apartments) is in a HUD-designated Enterprise Community whose goals of creating jobs, housing, and new educational and healthcare opportunities are consistent with the goal of deconcentration and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E and subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: St. Paul Public Housing Agency (SPHA), St. Paul, MN; The SPHA requested an exception to the initial guidance to permit it to attach PBA to the Oxford, a building that is in a census tract with a poverty rate that exceeds 20 percent. The SPPHA also requested an exception to waive the requirement that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA for this project and a second project named the Lexington.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent. Section II subpart F requires that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services. Until regulations are promulgated regarding the category of families receiving supportive services, HUD Headquarters is authorizing implementation of this aspect of the law on a case-by-case basis.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 13, 2002.

Reason Waived: Approval of the exception for deconcentration was granted since the Oxford is in a HUD-designated Enterprise Community the goals of which are to open new businesses, create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goal of deconcentration and expanding housing and economic opportunities. Approval of the exception for the number of units in a building that may be project-based was granted because the families living in the Oxford and Lexington will receive supportive services including job training, literacy life skills, childcare, and transportation. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: Housing Authority City of Elkhart (HACE), Elkhart, IN; The HACE requested an exception to waive the requirement that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA for 12 units of housing that will be rehabilitated at 525 Middlebury Street.

Nature of Requirement: Section II subpart F of the initial guidance requires that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services. Until regulations are promulgated regarding the category of families receiving supportive services, Headquarters is authorizing implementation of this aspect of the law on a case-by-case basis.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 27, 2002.

Reason Waived: Approval of the exception to the number of units in a building that may be project-based was granted because the families living in the Middlebury Street building will receive supportive services in the areas of employment, homemaking skills, credit and household budgeting, and asset building for homeownership. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

- *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA PBA Program; Initial Guidance.

Project/Activity: Camden Housing Authority (CHA), Camden, NJ; The CHA requested an exception to waive the requirement that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA for Everett Gardens, a 184-unit project that will undergo substantial rehabilitation.

Nature of Requirement: Section II subpart F requires that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services. Until regulations are promulgated regarding the category of families receiving supportive services, HUD Headquarters is authorizing implementation of this aspect of the law on a case-by-case basis.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: November 29, 2002.

Reason Waived: Approval of the exception for the number of units in a building that may be project-based was granted because the families living in Everett Gardens will receive supportive services including job readiness, general education development, and training in trade programs. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

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Federal Register

Monday,
April 7, 2003

Part IV

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 71, 92, et al.

Recognition of Animal Disease Status of Regions in the European Union; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71, 92, 93, 94, 98, and 130

[Docket No. 98–090–5]

RIN 0579–AB03

Recognition of Animal Disease Status of Regions in the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of animals and animal products to recognize a region in the European Union as a region in which hog cholera (classical swine fever) is not known to exist, and from which breeding swine, swine semen, and pork and pork products may be imported into the United States under certain conditions, in the absence of restrictions associated with other foreign animal diseases of swine. Additionally, we are recognizing Greece and four Regions in Italy as free of swine vesicular disease. These actions are based on a request from the European Commission's (EC's) Directorate General for Agriculture and on our analysis of the supporting documentation supplied by the EC and individual Member States. These actions will relieve some restrictions on the importation into the United States of certain animals and animal products from those regions. However, because of the status of those regions with respect to other diseases, and, in some cases, because of other factors that could otherwise result in a risk of introducing animal diseases into the United States, the importation of animals and animal products into the United States from those regions will continue to be subject to certain restrictions.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Director, Sanitary Trade Issues Team, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356. The full risk analysis and economic analysis associated with this rule may be obtained electronically at *http://www.aphis.usda.gov/vs/ncie/reg-request.html,* or by contacting the person listed under this heading.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA or the Department) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

On June 25, 1999, we published in the **Federal Register** (64 FR 34155–34168, Docket No. 98–090–1) a proposal to amend the regulations by recognizing—with the exception of specified regions in Germany and Italy—the countries of Austria, Belgium, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, and Spain as a region in which hog cholera (classical swine fever (CSF)) is not known to exist, and from which breeding swine, swine semen, and pork and pork products may be imported into the United States under certain conditions. The regions in Germany and Italy that were not included in that region are the following: In Germany, the Kreis Vechta in the Land of Lower Saxony, the Kreis Warendorf in the Land of Northrhine Westfalia, and the Kreis Altmarkkreis Salzwedel in the Land of Saxony-Anhalt; and in Italy, the Island of Sardinia (referred to in this document as the Region of Sardegna), and the Regions of Emilia-Romagna and Piemonte.

Additionally, we proposed to add Greece to the list of regions recognized as free of foot-and-mouth disease (FMD). We also proposed to add Greece to the list of FMD-free regions whose exports of ruminant and swine meat and products to the United States are subject to certain restrictions to guard against introducing FMD into this country. These restrictions were proposed because Greece imports fresh meat of ruminants or swine from regions where FMD exists; has a common border with regions where FMD exists; and imports ruminants or swine from regions where FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

Finally, we proposed to add Greece and eight Regions in northern Italy (listed below) to the list of regions recognized as free of swine vesicular disease (SVD). Additionally, we proposed to add Greece and the eight Regions in Italy to the list of SVD-free regions whose exports of pork and pork products to the United States are subject to certain restrictions to guard against introducing SVD into this country. These restrictions were proposed because of the same situations with regard to SVD that were described in the preceding paragraph regarding FMD and Greece. We proposed to add the following Regions in northern Italy to these lists: Abruzzi, Emilia-Romagna, Friuli-Venezia Giulia (referred to in the proposed rule as Friuli), Liguria, Marche, Molise, Piemonte, and Valle d'Aosta.

Before developing our proposed rule, we conducted an analysis to determine the likelihood of introducing CSF from the European Union (EU) and to determine what, if any, mitigation measures we considered necessary. We assessed the likelihood of introducing CSF through the importation of live breeding swine, swine semen, and pork and pork products, and submitted the risk analysis for peer review.

We solicited comments concerning our proposal, including the risk analysis, for 60 days ending August 24, 1999. We received five comments by that date. They were from a domestic industry organization, a veterinary association, the EC, and other members of the public.

One of the comments expressed concerns with several aspects of our risk analysis. Based on that comment, and as recommended by the Department's Office of Risk Assessment and Cost Benefit Analysis based in part on peer review comments, we revised the initial risk analysis and included a supplement that presented in more detail specific information about CSF outbreaks in the EU.

On May 3, 2002, we published in the **Federal Register** a notice (67 FR 22388–22389, Docket No. 98–090–2) that the revised risk analysis was available for public review and we requested comments on the revised document. The comment period was initially scheduled to end July 2, 2002, but on July 5, 2002, in response to a request by a commenter, we published a notice in the **Federal Register** (67 FR 44798–44799, Docket No. 98–090–3) that reopened and extended the comment period until July 17, 2002. We received 21 comments by that date. They were from domestic and foreign industry organizations, individual businesses, a U.S. State Port Authority, the EC, a member State of the EU, and other members of the public.

We carefully considered all comments we received on our June 1999 proposal and our May 2002 notice of availability of the revised risk analysis. For the reasons given in the proposed rule and in this document, we are adopting our June 1999 proposed rule as a final rule, with the changes discussed below. (It should be noted that even though this

final rule removes some importation restrictions on animals and products from certain foreign regions with regard to CSF and SVD, the importation of swine and swine products from the EU may continue to be prohibited or restricted due to the presence in the EU of other diseases affecting swine, such as brucellosis, pseudorabies, and tuberculosis.)

We will first discuss the issues raised by commenters in response to our June 1999 proposed rule, then we will discuss the issues raised in response to our revised risk analysis.

Comments on the June 1999 Proposed Rule

Of the five comments we received in response to our June 1999 proposed rule, three supported the proposal as written. Of the other two comments, one generally supported the proposal, but recommended certain changes. The other expressed concerns with a number of provisions of the proposal and its supporting documentation. We discuss below the issues raised by the commenters.

SVD in Italy

As discussed above, in our June 1999 proposed rule, we proposed to list eight Regions in Italy as those in which SVD is not known to exist. (In Italy, a ''Region'' is a type of political jurisdiction.) Those eight Regions were Abruzzi, Emilia-Romagna, Friuli-Venezia Giulia, Liguria, Marche, Molise, Piemonte, and Valle d'Aosta. One commenter requested that we also recognize the following nine Regions as those in which SVD does not exist: Lombardia, Trentino-Alto Adige, Veneto, Toscana, Umbria, Lazio, Basilicata, Puglia, and Sardegna. We have carefully evaluated the information contained in the comment, and believe that it would be appropriate to allow members of the public to comment on the change requested by the commenter. Therefore, we are not making any changes in this final rule in response to this comment, but we intend to initiate a separate notice and comment rulemaking regarding those additional Regions.

Further, because SVD was diagnosed in the Regions of Abruzzi, Emilia Romagna, Molise, and Piemonte in 2002, we are not including those Regions in this final rule as regions in which SVD does not exist. However, we are developing an updated evaluation of the SVD situation in those Regions. We will publish a notice in the **Federal Register** when the updated evaluation is ready for public review and will accept comment on the evaluation for a specified period of time. Following review of any comments we receive, we will determine whether it is appropriate to consider those Regions as regions in which SVD does not exist. If such a determination is made, we will publish a final rule to that effect in the **Federal Register**.

FMD in Greece

We proposed in our June 1999 proposal to recognize Greece as a region in which FMD does not exist. Following publication of that proposal, FMD was diagnosed in the summer of 2000 in cattle in several prefectures in Greece. However, since September 2000, there have been no incidences of FMD in that country. Therefore, on March 21, 2002, we published a proposal in the **Federal Register** (67 FR 13105–13108, Docket No. 01–059–1) to recognize Greece free of FMD. We solicited comments concerning our proposal for 60 days ending March 20, 2002, and received no comments. Following the comment period, we published a final rule in the **Federal Register** (67 FR 44524–44526, Docket No. 01–059–2) in which we adopted the proposed rule as a final rule without change.

Change in Terminology

Our regulations in 9 CFR chapter I use the term ''hog cholera.'' When we published our June 1999 proposed rule, consistent with the existing regulations, we used the term ''hog cholera.'' However, it is standard practice among veterinary practitioners in the international community to refer to hog cholera as ''classical swine fever'' or ''CSF.'' Therefore, in the remainder of this final rule, including the regulatory text at the end of this document, we use the term ''classical swine fever'' (or ''CSF'') rather than ''hog cholera.'' Additionally, for the sake of consistency throughout our regulations in 9 CFR chapter I, we are removing the term ''hog cholera'' wherever it appears in the existing regulations (*i.e.*, parts 71, 93, 94, 98, and 130) and adding in its place the term ''classical swine fever.''

Administrative Units Considered

As noted above, in Italy, the smallest administrative jurisdiction we considered for purposes of regionalization was the ''Region.'' In Germany, we used the ''kreis.'' One commenter said that it was not clear from the proposal why APHIS concluded that the Italian Region and the German kreis should be considered for regionalization purposes. The commenter stated that the proposal did not include information relating to unique characteristics of the regions and physical boundaries that may or may not be present. Another commenter agreed with our use of the kreis in Germany for CSF regionalization purposes but recommended that, in Italy, we use instead the ''Unita Sanitarie Locali.''

As discussed in our proposed rule, we chose to use the Italian ''Region'' and German ''kreis'' for purposes of regionalization because we considered them to be the smallest administrative jurisdictions in those countries that have effective oversight of normal animal movements into, out of, and within those jurisdictions, and that, in association with national authorities if necessary, have the responsibility for controlling animal disease locally. The commenter who suggested we use the Unita Sanitarie Locali as the smallest administrative jurisdiction in Italy did not offer any information as to how the Unita Sanitarie Locali meets those criteria. Therefore, we are not making any changes based on the comments received, but we welcome further information on this issue.

Information on Outbreaks

One commenter stated that the proposed rule did not include information relating to specific outbreaks in the regions addressed by the proposed rule, and that it would have been instructive for APHIS to have included in the proposed rule a map indicating where the CSF outbreaks occurred in relation to the proposed regionalization, along with a list of reasons for the outbreaks (*e.g.*, wild boar exposure, feeding of uncooked garbage, transport into the area, or unknown origin).

We agree that the type of information referred to by the commenter is important in assessing the CSF risk presented by imports from particular regions, and we considered those factors in our risk analysis. At the time we published the proposed rule, some of the information was available on the APHIS Internet website, which was referenced in the proposed rule. The supplement to our initial risk analysis illustrates in more detail the type of information referred to by the commenter.

Concern With Regionalization

One commenter on our June 1999 proposal expressed concern that, following publication of the proposed rule, an outbreak of CSF occurred in the Kreis Uckermark in the Land of Brandenburg in Germany, which was included in the proposal as an area in which CSF is not known to exist. The commenter stated further that, even

though the prevalence of CSF in wild boars in Brandenburg had been determined to be under 1 percent, that apparently was enough to lead to infection of the domestic population. The commenter concluded that there is insufficient control of the potential sources of the introduction of CSF into herds in Germany to allow that country to be regionalized.

When we developed the risk analysis on which we based our proposed rule, we included among our assumptions the probability that CSF outbreaks would continue to occur in the EU, just as we must assume there is some chance of an outbreak of a particular disease in any country we currently consider free of that disease. Starting from the assumption that future outbreaks of CSF would occur, we evaluated the risk of disease spread based on the length of time between the occurrence of CSF infections and the time that control efforts, such as implementation of new restriction zones, took effect. We concluded that breeding swine, swine semen, and pork and pork products could be imported with extremely low risk from the region we were proposing to establish in the EU, under the conditions set forth in the proposal. It should be noted that the information and data we used for our risk analysis were from outbreaks that occurred in 1997–1998, which constituted one of the worst CSF epidemics in the EU in recent history.

CSF in Germany

One commenter stated that no scientific justification was provided in the proposed rule for identifying the Kreis Vechta, the Kreis Warendorf, and the Kreis Altmarkkreis Salzwedel as those regions in which CSF is considered to exist, or for how the risk from other areas in Germany was assessed.

As we explained in our proposed rule, in establishing geographic boundaries for the regions, we used the boundaries of the smallest administrative jurisdiction that has effective oversight of normal animal movements into, out of, and within that jurisdiction, and that, in association with national authorities if necessary, has the responsibility for controlling animal disease locally. In Germany, this administrative unit is a *kreis.*

We proposed to continue to consider the kreis listed above as regions in which CSF is known to exist because each had an outbreak of CSF during the 6 months prior to the time we developed our proposed rule. In assessing the risk from the remaining areas of Germany, we assumed, as described above, that CSF outbreaks would continue in the EU, and we evaluated risk based on the length of time between the occurrence of infection in a region previously considered free of CSF by the EC and the time that control efforts took effect.

Delay in Disease Detection

In our proposed rule, we stated that, in 1997, an estimated 103 of 611 CSF outbreaks in the EU occurred outside any zones that were under restrictions because of CSF, and that, of those 103, only 1 was a swine semen collection center approved for export, and only 1 was a breeding operation that engaged in export sales. We stated further that epidemiological evidence suggests that the disease was present in various regions for 7 days to nearly 8 weeks before it was detected and the region was placed under restrictions. One commenter expressed concern that this demonstrated that several importations into the United States of semen and breeding stock could occur before a CSF outbreak is detected.

The commenter is correct in concluding that, with unmitigated importation, there is a significant risk of introducing CSF into the United States. Our risk analysis calculated that risk as a probability, and also calculated the probability if mitigation measures were applied. We evaluated the likely volume of imported products and the prevalence of infected versus noninfected products in the estimate of the probability that infected products would be imported. The risk of importing CSF-infected products is not zero but, as discussed in the risk analysis, is quite low. Of the products evaluated, the risk analysis identified swine semen as presenting the greatest risk. Therefore, we proposed that, in addition to the EU's routine biosecurity measures, before swine semen can be exported to the United States from the region in question, the donor boar must be held at the semen collection center for at least 40 days following collection of semen, and, along with all other swine at the semen collection center, exhibit no clinical signs of CSF.

Compliance With Office International des Epizooties (OIE) Guidelines

In discussing the quantitative risk analysis that we used as a basis for our proposed rule, we stated that one of the starting point assumptions we made was that OIE export guidelines are applied to the movement of animals and animal products within the EU. One commenter stated that, elsewhere in our proposal, we indicated we had to take into account that the EC released certain areas from restrictions prior to completion of a 6-month waiting period. The commenter expressed concern that our risk analysis appeared to be using an assumption that is not supported by current practice in the EU, and requested further documentation of adherence to the OIE standard before the proposed rule was made final.

Although we stated that we expected that OIE export guidelines would be applied to movement of animals and animal products within the EU, we did not build that assumption into our quantitative risk assessment. The quantitative assessment was based on the waiting periods actually used by the EU during the 1997–1998 epidemic. With regard to guidelines for export to the United States, whether a region is certified as being free of CSF must be based on U.S. criteria (*i.e.*, at least 6 months must have passed since eradication of the last outbreak of the disease).

One commenter stated it was not possible to determine from the site visit reports done prior to the proposed rule whether movement and import controls complied with EU directives. Additionally, said the commenter, information was not presented regarding compliance with directives regarding truck washing.

When conducting its site visit, the review team observed compliance with EC directives, truck washing, and tracking of swine movements through the ''SANITEL–V'' and ''ANIMO'' databases. (The SANITEL–V database is a computerized database in Belgium that contains information on animal identification, farm registration, and animal movements. The ANIMO database is an EU-wide database that contains origin, destination, and movement information regarding animal movements within the EU.)

Notification of Change in Disease Status

One commenter stated that the proposed rule did not describe the process by which the EU would notify APHIS of a change in regionalization status and how timely we expected that notification to be. The commenter stated additionally that the proposed rule included no discussion of the process by which APHIS would accept or reject a regionalization decision and the impact of that process on EU exports of animals and animal products to the United States.

The U.S.-EU Equivalency Agreement (an agreement covering sanitary measures affecting U.S.-EU trade in all animals and animal products) requires written notification, within 24 hours, of a change in disease status. If the EU

recognizes a region in a previously disease-affected area to be free of a disease, any APHIS acceptance of the EU regionalization will be carried out through the rulemaking process, with an opportunity for the public to comment on and submit information regarding the regionalization.

Values Used in Our Risk Analysis

As noted above, before developing our proposed rule, we conducted an analysis to determine the likelihood of the introduction of CSF from the EU region in question, and to determine what, if any, measures we considered necessary to mitigate risk. We assessed the likelihood of the introduction of CSF through live breeding swine, swine semen, and pork and pork products.

In assessing the risk of CSF introduction, we incorporated certain numerical information into our mathematical model. For breeding swine, for example, we used input values for the following: The number of undetected, CSF-affected breeding farms eligible to supply animals for export, assuming that undetected CSF exists in the EU; the number of breeding herds eligible for export in the EU; the number of weeks that CSF remains undetected in EU breeding herds per year, assuming that undetected CSF exists in the EU; the number of breeding swine shipments per year; the number of breeding herds per shipment; the number of animals selected for export from any given breeding herd; and the probability that an individual animal is infected with CSF, assuming that there is infection in the herd.

One commenter questioned some of the input values we used. The input values in question, the commenter's concerns, and our responses are as follows:

1a. *Input value:* The number of undetected CSF-infected herds in the EU, assuming that undetected CSF exists in the EU within regions eligible to export breeding swine.

1b. *Comment:* It is unclear whether established restriction zones in the EU were based on information available before 1997. If this is not so, the number of herds may be underestimated due to the lack of complete information to identify those restriction zones. In other words, a *post hoc* evaluation of regions is invalid and underestimates the number of infected herds. It may also be useful to give this a triangular distribution, because it is based on the occurrence of one case. If there were not this one case, the model would interpret that there is no risk from breeding stock.

1c. *Response:* The information and data we used in the risk analysis for determining whether infected herds were inside established restriction zones were from outbreaks that occurred in 1997 and 1998. We obtained the information from epidemiological reports provided by the EU and from extensive discussions with EU representatives. The dates that the restriction zones were established were carefully compared to the dates that herds were believed to have become infected. Only one export-oriented swine semen center and one export-oriented breeding operation were identified as having become affected outside of established restriction zones.

We do not agree that the data we used underestimated the potential disease risk. The analysis is based on data from the most severe CSF outbreak documented in EU history and assumes that this event is typical of a severe situation in the EU that might occur in the future. This approach likely overestimates the actual risk. We believe that if the EU made epidemiological data available for the several years prior to the 1997 to 1998 outbreaks, and if these data were incorporated into the risk analysis, the estimated risk levels would be lower than those we reported.

With regard to the recommendation that we use a triangular distribution (*i.e,* a calculation of the minimum, most likely, and maximum estimate), we did sensitivity analyses (*i.e.*, the determination of how variations in input data affect probability outcomes) using a variety of scenarios. Although the results of these multiple analyses were not included in the original risk analysis document, we included them in the revised risk analysis. The results of the multiple analyses did not affect the conclusions of the analysis.

2a. *Input value.* The number of weeks that CSF remains undetected in EU breeding herds per year, assuming that undetected CSF exists in the EU (based on varying lengths of time in different areas of the EU).

2b. *Comment.* The differentiation of detection periods among areas appears to be based on very limited information. It is not clear why the areas need to be differentiated or what the mechanical logic is for the wide range of detection periods.

2c. *Response.* The information regarding the time that infection remained undetected in various locations in the EU was drawn from the actual outbreaks that occurred from 1997 to 1998. The rather substantial differences in duration among various locations (7 to 21 days in several areas to 53 days in one area) were due in part to the fact that some detections occurred in areas with ongoing CSF eradication efforts, which included active surveillance, while other detections occurred in areas where only passive surveillance was being used. In some instances, the initial detection within a country took a great deal longer than subsequent detections in other parts of the country because the initial detection caused heightened awareness and surveillance.

3a. *Input value.* Number of breeding herds per shipment. (The risk analysis used 1 for this value.)

3b. *Comment.* Is it policy that only one herd will be used in a shipment? If not, perhaps it should be.

3c. *Response.* This assumption was incorporated into some of the simulations we performed for the purposes of our risk analysis, because, historically, most shipments have involved one herd. However, the commenter did not provide, and we are not aware of, a disease risk reason to limit shipments to one herd. If all animals to be imported are moved in accordance with the regulations, including more than one herd in a shipment would not present an unacceptable increase in disease risk.

4a. *Input value.* Number of animals selected for export from any given breeding herd. (The geometric mean of the distribution for the number of swine per shipment was 6.125. For the purposes of our risk analysis, we used a value of 6.)

4b. *Comment.* It could be argued that using the geometric mean of 6 probably underestimates the size of future imports. It is more likely that substantial portions of the line will be imported to allow rapid transfer of genetics.

4c. *Response.* We agree that using the geometric mean could result in an underestimate of possible future imports. For this reason, we ran a simulation using an arithmetic mean (38 animals) as well, which is included in our revised risk analysis. We found that increasing the number of breeding swine in a shipment more than six-fold does not change our conclusion that the risk is still very low.

5a. *Input value.* Probability that an individual animal is infected with CSF, assuming that CSF exists in the herd; or proportion of infected animals in a semen center in which CSF exists. The risk analysis used a triangular distribution of 0.05, 0.15, and 0.40 for each of these probabilities. We noted in our risk analysis that indirect reports suggest the value may be extremely variable (*i.e.*, 25 percent to 100 percent, depending on circumstances).

5b. *Comment.* This is a subjective estimate with a value that is extremely variable. It is not clear why the upper

limit is 40 percent in this estimate. The need for the triangular estimate is understood, but the biological possibility of 100 percent is not accounted for.

5c. *Response.* Despite a 40 percent upper limit suggested by EC officials, we performed a sensitivity analysis on this upper limit, and also ran simulations with an upper limit of 100 percent, although that analysis was not reported in the original risk analysis. Using a 40 percent upper limit, the expected frequency of incursion was one or more in every 33,670 years. Using a 100 percent upper limit, the expected frequency of incursion was one or more in every 26,000 years, a 1.3-fold change. We included the results of these additional sensitivity analyses in our revised risk analysis.

Swine Semen Collection Centers

In § 98.38 of our proposed rule, we set forth conditions for the importation of swine semen from the multicountry area of the EU we were proposing to consider as one region. These conditions included origin requirements for the donor boar, requirements for isolation and testing prior to the boar's entry into the semen collection center, transportation requirements, and requirements for holding and observing the boar at the semen collection center for at least 40 days following collection of the semen. One commenter requested that an additional condition be included, *i.e.*, to require that the donor boar be serologically tested while at the semen collection center. The commenter stated that observation alone might not detect very subtle clinical signs of CSF infection.

We are making no changes based on this comment. All boars must be tested for CSF with negative results before entering the semen collection center. We do not consider it necessary to require additional testing at the center to ensure that the donor boar is not infected with CSF. Additionally, if an infected animal were held for at least 40 days at a collection center, it is very likely that the other animals being held at the center would provide a ''sentinel effect''-that is, other animals exposed to the infected animal would likely show clinical signs of the disease while the infected animal was being held at the center. In developing our risk analysis, we created a scenario of maximum risk by not taking into account any sentinel effect. In actuality, it is likely that such an effect would provide a safeguard that an infected animal would be detected.

EU Trading Partners

One commenter said it was not clear from the proposal if importation from the EU region would be dependent on the United States considering countries that export animals and animal products into the EU region as free of CSF, or if the United States would accept the EU designation of its trading partners' CSF status.

Our consideration of whether to allow the importation of animals and animal products from a region in the EU was based on a number of factors. One of the factors we considered was that the exportation of swine into the EU from countries outside the EU is allowed under certain conditions if the animals are accompanied by a declaration that the countries are free of CSF, or if the animals were tested with negative results for CSF. Such movement controls are based on the status of countries outside the EU as recognized by the EU. Additionally, we considered the EU's ability to rapidly detect and eliminate any outbreaks of CSF that might occur within the EU. In our proposal, we discussed the surveillance for CSF that is carried out in the EU and the measures that would be taken to control and eradicate the disease in the event of an outbreak. After assessing these and other factors (as discussed in our proposed rule), we concluded that the conditions we proposed for importing breeding swine, swine semen, and pork and pork products into the United States from the EU would mitigate the risk of introducing CSF into this country.

CSF Outbreaks in France, Spain, Luxembourg, and Germany After June 1999

Following publication of our June 1999 proposed rule, there were CSF outbreaks in domestic swine in parts of the EU, including France, Luxembourg, Spain, and Germany. Following those outbreaks, each of the affected countries took action to eradicate CSF. At this time, we are developing an updated evaluation of the CSF situation in France, Luxembourg, and Spain, and defining the jurisdictional level we could recognize as a region within those countries. We will publish a notice in the **Federal Register** when the updated evaluation is ready for public review and will accept comment on the evaluation for a specified period of time. Following review of any comments we receive, we will determine whether it is appropriate to consider: (1) France, Luxembourg, and Spain (or an appropriate combination of the three) as countries in which CSF does not exist or (2) appropriate jurisdictional units of France and/or Spain as regions in which CSF does not exist. If such a determination is made, we will publish a final rule to that effect in the **Federal Register**.

Additionally, we anticipate developing a similar updated evaluation for those kreis in Germany that had CSF outbreaks after being included in the June 1999 proposed rule, for discussion in a separate notice in the **Federal Register**. Those areas of Germany are as follows: Kreis Heinsberg in the Land of Northrhine-Westphalia; Kreis Oldenberg in the Land of Lower Saxony; Kreis Uckermark in the Land of Brandenburg; Kreis Bernkastel-Wittlich in the Land of Rhineland Palatinate; Kreis Soltau-Fallingbostel in the Land of Lower Saxony; Kreis Rhein-Hunsruche in the Land of Rhineland-Palatinate; Kreis Bitburg-Prüm in the Land of Rhineland Palatinate; Kreis Trier-Saarburg and Kreis Südliche Weinstrasse in the Land of Rhineland Palatinate; and Kreis Donnersbergkreis in the Land of Rhineland Palatinate.

CSF Outbreak in Spain

One commenter expressed concern regarding the site visit report that APHIS completed prior to development of the proposed rule. The commenter noted that the site visit report indicated that no information was available at the time of its drafting regarding the source of an outbreak of CSF in the Province of Segovia in Spain. The commenter requested that any information that was subsequently obtained be made available to the public.

All information that has been made available to us by Spain is posted to the APHIS Internet website.[1] At this time, the source of the outbreak in Segovia has not been determined. However, the current epidemiological situation is being actively monitored in view of the recent outbreaks, and we are not relieving restrictions on imports from Spain at this time.

Movement of Swine Within Germany

One commenter stated that the site visit report noted that if CSF occurs in a district (kreis) in Germany, under EU standards, swine may not be exported to another country from anywhere in the State (Land) in which the district is located. However, districts in the State

[1] The Internet address for accessing the information is *http://www.aphis.usda.gov/vs/ncie/reg-request.html.* At the bottom of that website page, click on ''Information previously submitted by Regions requesting export approval and their supporting documentation.'' At the next screen, click on the triangle beside ''European Union/Not Specified/Classical Swine Fever,'' then on the triangle beside ''Information Supporting Request.''

other than the affected district may move swine within Germany. The commenter stated that there is some question whether this practice continues at present and, if so, questioned whether this practice should affect how the United States views the disease status of Germany.

The type of movement within Germany that is referred to by the commenter is governed by a number of restrictions that reduce any disease risk that might otherwise be present. Swine that are moved from districts in a State other than an affected district must be clinically examined and serologically tested for CSF before being moved within Germany. After being moved, the swine must be held in isolation and clinically examined for 30 days.

Disease Surveillance in the EU

One commenter stated that the site visit report did not provide information on the level of active surveillance in areas next to the regions in the EU in which CSF is considered to exist.

As we stated in our proposed rule, if an outbreak of CSF occurs, eradication measures are conducted on the affected premises, and movement restrictions and active surveillance measures are implemented in surrounding areas. A protection zone with a radius of at least 3 kilometers and a surveillance zone with a radius of at least 10 kilometers are placed around the affected premises. Among the measures taken within the surveillance zone are the serological testing and clinical examination of all swine herds in the zone.

CSF Outbreaks in Previously Free Countries

At the time we published our proposed rule, there were certain countries in Europe that the existing regulations listed as free of CSF. Because these countries were already considered free of the disease, we did not propose to include them in the multicountry EU region we identified in our proposal. One commenter questioned whether, in the event of a CSF outbreak in those ''free'' countries, the United States would accept the EU regionalization strategy in those countries, or would instead address the situation on an ''entire country'' basis. The same commenter stated that the final rule should specify when and how APHIS would choose to invoke safeguarding mechanisms to restrict or prohibit imports from the EU, rather than accept and approve EU regionalization strategies and requests.

We would treat a CSF outbreak in a country we had considered free of the disease in the same way that we would treat an outbreak of any disease of concern in a ''free'' country. According to Article 12 of the U.S.-EU Equivalency Agreement: ''Either Party may take provisional measures necessary for the protection of public or animal health. These measures shall be notified within 24 hours to the other Party and, on request, consultations regarding the situation shall be held within 14 days. The Parties shall take due account of any information provided through such consultations, and shall endeavor to avoid unnecessary disruption to trade. * * *''

In this final rule, we are adding a new § 92.3 that provides that whenever the EC establishes a quarantine in the EU in a region APHIS recognizes as one in which a disease is not known to exist, and the EC imposes restrictions on the movement of animals or animal products from the quarantined area, such animals and animal products are prohibited importation into the United States. If the outbreak appeared likely to continue in a limited part of the country, we would impose a ban on products from the area in question and, through rulemaking, would change the disease status listing of that part of the country. If the outbreak appeared to be spreading to other areas of the country, we would initiate rulemaking to change the disease status listing of the entire country.

FMD in Greece; SVD in Greece and Italy

As noted above, in our proposed rule, we proposed to add Greece to the list of regions recognized as free of FMD. Additionally, we proposed to add Greece and eight Regions in northern Italy to the list of regions recognized as free of SVD. One commenter stated that the information regarding Greece upon which the proposal was based was collected in 1997, and expressed concern that the information did not address political unrest in Yugoslavia and an FMD outbreak in Turkey. The commenter also questioned why APHIS did not consider it necessary to conduct a site visit in Italy.

As noted above, following publication of our June 1999 proposed rule, several outbreaks of FMD occurred in Greece in the summer of 2000. No additional outbreaks have occurred since September 2000. In January 2001, APHIS representatives conducted a site visit to Greece to obtain evidence regarding the FMD status of that country and determined that a proposal to consider Greece free of FMD was warranted. In March 2001, APHIS published in the **Federal Register** a proposal to consider Greece free of the disease, received no comments on the proposal, and made the proposal final in July 2002.

With regard to SVD, we are making no changes based on the comment. The last outbreak of the disease in Greece was diagnosed in 1979. Yugoslavia is recognized as a region in which SVD does not exist. However, we are adding Greece to the list in § 94.13 of SVD-free regions whose exports of pork and pork products to the United States are subject to certain restrictions. We are applying these restrictions because Greece supplements its national pork supply by importing fresh (chilled or frozen) pork from regions where SVD exists; has a common land border with certain regions where SVD exists; and imports swine from regions where SVD exists under conditions less restrictive than would be acceptable for importation into the United States.

We did not conduct a site visit to Italy because we had conducted a site visit to that country 2 years previously (in March 1997) in connection with the Italian request to be recognized as free of African swine fever. That site visit gave us a clear understanding of, and confidence in, Italy's veterinary infrastructure, surveillance, diagnostic capabilities, and detection capabilities.

Noncommingling of Products

One commenter stated that the proposed rule did not describe how APHIS would validate that products destined for export from Greece or Italy are not commingled with or exposed to products originating in regions where SVD exists.

Such validation will be carried out in the same way as in other countries that export animals and animal products to the United States. We require certification by veterinary officials in those countries that our regulatory requirements have been met. Additionally, initial inspections of slaughtering and processing establishments are conducted by the Department's Food Safety and Inspection Service (FSIS) and APHIS, and periodic inspections are subsequently conducted by FSIS.

Comments Received on Revised Risk Analysis

Of the 21 comments we received in response to our May 2002 notice of availability, one requested an extension of the comment period, and all but two of the rest of the commenters either supported the results of the revised risk analysis or recommended that the June 1999 proposed rule be made final.

Of the remaining two commenters, one expressed the opinion that the risk of introducing CSF virus into the United

States via the import of semen is much less than the one estimated in the risk analysis, based on the following reasons:

• Although the swine semen simulation model used in the risk analysis assumes that an outbreak of CSF occurs each 2 years in a semen collection center in the region being analyzed, between 1991 and 2002 only one CSF outbreak occurred in a semen collection center in the region in question.

• Although the risk analysis assumed that the ''risky period'' in the case of an outbreak in a semen collection center would last as long as in any other pig holding—*i.e.*, 3–4 weeks on average—this does not correspond to what actually happened in the Netherlands in 1997, when CSF was introduced into a swine semen center and was recognized in other swine holdings in the vicinity of the center well before confirmation of the disease in the center itself.

• Improvements have been made through EC legislation to reduce the risk of spreading CSF through swine semen. This legislation took into account the experiences of the 1997–1998 outbreak.

The commenter requested that APHIS eliminate the requirement that semen collected in the EU region in question be held for 40 days before being exported to the United States. The commenter further requested that, if APHIS believes that some mitigating measures on the importation of semen are necessary, it consider alternative measures such as the testing of semen before exportation by virological tests.

We are making no changes based on this comment. The application of a 40-day hold on semen was based on the results of the risk assessment we conducted for the proposed rule, which indicated that, without mitigation, the importation of swine semen from the EU region in question would present a disproportionate risk of introducing CSF into the United States. The 40-day hold was determined to be an effective mitigation measure. If we receive a request from a member of the public to consider an alternative means of mitigation, along with supporting information with which to evaluate such a request, or if we receive information that indicates that no mitigation measures may be necessary, we will conduct an assessment of the risk of importing swine semen into the United States under the conditions suggested. If such an assessment indicates that the change would be appropriate, we will publish, in accordance with the Administrative Procedure Act (APA), a proposal in the **Federal Register** to change the regulations accordingly, and provide an opportunity for other members of the public to comment on the proposed action.

The commenter also stated that the provisions of the final rule should reflect the current CSF situation in the EU, not the situation in 1999.

We published our June 1999 proposal in response to a request from the EC that we consider a multi-country area in the EU as one region, and we conducted an analysis of the risk of the introduction of CSF from that region at that time. In accordance with the APA, we invited comments on the proposed rule and are addressing in this final rule the comments we received. We are receptive to requests for further changes to the regulations and will address such changes through notice and comment rulemaking in accordance with the APA. If the existing situation appears to warrant a new analysis, we will conduct one.

One commenter raised a number of issues regarding our proposed rule and specific provisions of the risk analysis. We address below the issues raised by that commenter in a comment/response format.

Comment: APHIS' scientific approach toward the regionalization of the EU and its member States and sublevels seems to differ from APHIS' approach to other countries or regions. Continuing outbreaks of CSF in the EU call into question the ability of the EU to apply appropriate disease control measures and how APHIS can evaluate risk in a dynamic situation.

Response: We agree that the approach we proposed to regionalizing the EU is somewhat different from the way we have historically approached other regionalization actions. This is due to the nature of the request from the EU, which asked that multiple countries be considered as one region, and the infrastructure and regulatory factors specific to the region in question. In recognition of what the commenter refers to as a ''dynamic situation,'' the risk analysis we developed recognized the possibility of continuing sporadic CSF outbreaks in the EU region in question, and the risks associated with these outbreaks, rather than looking at a specific geographic area as free of the disease. Risk was defined as a quantitative probability based on the disease history of the region and was approached on a commodity basis, rather than as an evaluation of disease status. The approach in our risk analysis and proposed rulemaking is consistent with APHIS' obligation under the World Trade Organization Agreement on Sanitary and Phytosanitary Measures (WTO–SPS Agreement) to recognize not only disease-free areas, but also areas of low disease prevalence for which mitigations can be established to reduce risk.

Comment: CSF has been diagnosed in numerous locations in the EU since the data for the revised risk analysis was collected, and these new data should be incorporated into a risk analysis to allow for an accurate conclusion. We believe an outbreak in domestic swine in France in 2002 due to exposure to wild boar contradicted an assumption in the risk analysis that CSF outbreaks in domestic swine in France do not occur due to exposure to wild boar. The descriptive observations in the risk analysis do not predict clearly where outbreaks may occur and, although APHIS stated in its risk analysis that an historical reduction in the spread of CSF from wild boar could be attributed to EU surveillance and control activities, those activities were considered inadequate by the EU to counter outbreaks that occurred after publication of the June 1999 proposed rule, as evidenced by the EC's decision in May 2002 to take further measures for the control of CSF.

Response: Much of the data used in the risk analysis were generated during an extremely severe CSF epidemic that occurred in the EU in 1997 and 1998. As discussed in the risk analysis, this CSF epidemic is considered the most severe the EU has ever experienced. The risk estimates generated in the analysis took into account the effectiveness of EU control measures, and where these measures failed, under these severe conditions. The risk analysis, therefore, anticipates future CSF epidemics of the same magnitude and the same level of detection and control failures as occurred during the 1997–98 epidemic. Given that recent CSF epidemics have been of a lesser magnitude and reflect fewer failures in detection and control, they fall within the expectations of the current risk analysis. Incorporating the data from these recent epidemics into the analysis would likely reduce the estimated risk.

We do not agree that our risk analysis assumed that CSF outbreaks in domestic swine in France do not occur due to exposure to wild boar. The statement that, at the time of the risk analysis, there had not been a CSF outbreak in France was not meant to imply that outbreaks in domestic swine do not occur due to exposure to wild boar, but was simply an observation of what had or had not occurred. The risk analysis recognized the possibility of continuing sporadic outbreaks anywhere in the EU. As discussed above, given that recent CSF epidemics are of a lower magnitude

and reflect fewer failures in detection and control, they fall within the expectations of the risk analysis. The risk analysis was not intended to predict where outbreaks might occur in the EU, but simply to assess the risk to the United States from future situations in the EU where CSF epidemics reach the same magnitude and the same level of detection and control failures as occurred during the 1997–98 epidemic. Again, the 1997–98 CSF epidemic is considered the most severe the EU has ever experienced.

Comment: Unless APHIS establishes what level of risk of a CSF incursion—as measured by ''the expected frequency of one CSF incursion every 'x' years''—it considers acceptable, it is difficult to assess the different levels of risk that are calculated in the risk analysis.

Response: Through the Animal Health Protection Act (AHPA) (7 U.S.C. 8301–8317), Congress declared that ''the Secretary may prohibit or restrict the importation or entry of any animal, article, or means of conveyance * * * if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock'' (7 U.S.C. 8303(a)). Neither the AHPA nor the Secretary through regulations has delineated all the specific conditions that might be considered necessary to protect against the introduction of animal diseases or pests. This allows APHIS to evaluate the specific animal diseases or pests of concern and impose the specific importation conditions necessary to reduce sufficiently the risk of the introduction of such diseases and pests.

APHIS has a long history of evaluating countries or other regions qualitatively for animal disease risk, including the risk of introducing CSF. A qualitative evaluation for this rulemaking was conducted in accordance with the standard approach described in 9 CFR 92.2. The results of this evaluation are presented throughout the final report of the risk analysis.

For this rulemaking, APHIS also conducted a quantitative assessment of the risks. APHIS estimated data parameters for input into the quantitative model that describe risks associated with the most severe outbreak of CSF that has ever occurred in the EU. APHIS reported the results of the assessment as the likelihood of one or more incursions per year or the mean time between incursions. Reporting results using quantitative frequency values of this type was not meant to provide, or imply that APHIS has identified, a precise frequency of incursion as an Appropriate Level of Protection or Acceptable Level of Risk (ALOP or ALOR). Rather, APHIS used these results to assess the probable range or degree of the likelihood of introducing CSF from the EU and what mitigating importation conditions, if any, need to be imposed to further decrease the degree of such likelihood. In this particular case, irrespective of the precise frequency of events estimated by the model, the numerical values suggested that the frequency of CSF introduction by breeding swine and pork from the EU would be extremely low, as would be the case with swine semen with mitigation. Using the information available to it, APHIS was able to determine the likelihood of introducing CSF from the EU, assess the different risk levels, and decide if any mitigation measures were necessary without having to pinpoint an exact ALOP or ALOR.

Comment: The OIE Code describes four components of risk analysis-release assessment, exposure assessment, consequence assessment, and risk estimation— but APHIS did not conduct a consequence assessment because APHIS considered the risks estimated for release and exposure ''very small.'' APHIS should complete all four steps in its risk analysis, due to the extremely wide margins around the most likely risk estimates, as well as different risks to the U.S. swine populations depending on the route of exposure (*e.g.*, infected meat vs. infected semen).

Response: OIE guidelines state that, if the release or exposure assessment demonstrates no significant risk, the risk assessment may conclude. APHIS addressed consequences in its analysis. However, because the risk values for both release and exposure were very small, it did not conduct a detailed consequence assessment. However, the risk analysis does address all components listed in the OIE guidelines.

Comment: In conducting its risk analysis, did APHIS consider assessing CSF risk from specific discrete areas in the EU countries, rather than in the EU region as a whole? Perhaps this type of analysis would have identified specific areas with higher risk levels and the need for additional mitigation measures. APHIS should discuss the appropriateness of establishing different levels of risk for different areas.

Response: The risk analysis that APHIS conducted considered multiple Member States of the EU as one region. This approach was in response to a request by the EC that the countries in question be considered together as one region. The approach we have taken is actually a conservative one with regard to disease risk, in that we are continuing to prohibit imports of swine and swine products from parts of or entire Member States that had an outbreak of CSF either shortly before we published our 1999 proposed rule or since that time. In those parts of the EU where we are removing prohibitions on imports due to CSF, we are also applying mitigating measures with regard to the importation of swine semen, in recognition of the trade practices among the EU Member States in the region.

Comment: It was not clear from the risk analysis how primary and secondary outbreaks are factored into the evaluation of risk. It appears that any infected herd, regardless of whether its infection was considered primary or secondary, could contribute to CSF risks prior to detection. In the report from the APHIS 2000 site visit to the EU, it was not clear whether the EU was immediately notifying the United States of secondary outbreaks of CSF. The United States might be exposed to CSF from animals or products from areas of secondary outbreaks.

Response: In the December 2000 risk analysis (Section II, ''Spatial and Temporal Considerations,'' in ''Temporal Trends in Primary versus Secondary Outbreaks''), we used the following definitions for primary and secondary outbreaks: ''For purposes of this discussion, APHIS is defining a primary outbreak as one that occurred in domestic swine in a previously free area. The smallest area under consideration by APHIS in this definition is a county-level equivalent (*e.g., kreis*) that had not recently reported a CSF outbreak attributed to wild boar, swill feeding, or any other (including unknown) cause. Secondary outbreaks are defined as other outbreaks and are generally attributed to causes such as the purchase of animals or contacts with persons or transport equipment from other premises with infected domesticated swine.'' The commenter is correct that any herd, regardless of whether it was considered a primary or secondary outbreak could contribute to risks prior to detection. However, even considering changes in the levels of secondary spread from recent outbreaks in areas like Germany, the magnitude and scope of this spread is far less than occurred in the Netherlands in 1997–98, which was the most severe outbreak in the region in question in recent history.

The practice of the EC is to consider any disease outbreak a primary outbreak if it occurs outside the administrative unit where another primary outbreak has already occurred. Therefore,

notification must be given of outbreaks in any areas that are not currently under restriction, even if they are epidemiologically linked to outbreaks that have already occurred in another administrative unit. Where secondary outbreaks occur in areas that have already had a primary outbreak, movement from that area will have already been shut down due to the primary outbreak.

Comment: It may be difficult to detect CSF quickly, as witnessed by the 1997 outbreaks in the Netherlands, where it was estimated the CSF virus was detected approximately 6 weeks after it was introduced. Quick detection may be hindered by presumption that clinical symptoms are caused by a disease other than CSF, such as when diagnosis of CSF in the United Kingdom was delayed due to confusion of CSF with Postweaning Multi-Systemic Wasting Syndrome (PMWS) and Porcine Dermatitis and Nephropathy Syndrome (PDNS).

Response: With regard to outbreaks in the Netherlands, the risk analysis took into account the actual detection delays that occurred during the 1997–98 epidemic, including the 6-week time period the commenter mentioned for the Netherlands. With regard to the potential of misdiagnosing CSF as PMWS or PDNS, since the CSF outbreak in the United Kingdom, the EC has adopted a CSF Diagnostic Manual, taking into account the experience gained during outbreaks in the United Kingdom and in other EU Member States. Additionally, recent improvements in CSF diagnosis have been made through the development of polymerase chain reaction techniques, which are particularly useful in combination with postmortem examination and histopathology when CSF might otherwise be confused with other diseases.

Comment: How does APHIS intend to enforce its prohibition on the importation of products and animals from EU areas that APHIS considers to be affected with CSF, if the EU allows movement among its member States from such areas before APHIS recognizes the areas as CSF-free? How will movements within the EU be monitored to ensure that products and animals are not moved from areas considered restricted regions by the EU?

Response: In determining which areas in the EU are considered ''CSF-affected,'' APHIS will apply the criterion of whether at least 6 months have elapsed since the last incidence of CSF in the area, and will prohibit imports of swine and swine products from areas that APHIS does not consider CSF-free. This should be verifiable from the certification provided by the exporting region. For regions from which importation is not prohibited due to CSF, APHIS will require certification of region of origin by the exporting country.

Comment: The proposed rule did not describe how animal products would be traced if there were an outbreak outside the areas in which CSF is considered to exist, and how such an outbreak would affect products already in the United States or in transit to the United States. How will APHIS track and keep its port inspectors notified as to which areas in the EU are allowed to export swine, swine products, and swine semen to the United States?

Response: In the event a trading partner should have an outbreak of CSF, we would follow the same notification procedures that we follow for any disease of concern. Any prohibited or restricted articles in transit would be stopped at the port of importation into the United States. If a product had already passed through a port of entry, we would trace the product by means of the importer's distribution records.

Comment: APHIS should discuss in the final rule any comments on its June 1999 risk analysis that were generated by peer review of the analysis.

Response: The peer review comments focused on lack of transparency, identification of data sources, sensitivity analysis, listing of mitigation options, and conformance with OIE format. The comments suggested further that the analysis be revised to expand its hazard characterization, taking into account the spatial and temporal nature of the outbreaks that had occurred in the EU, including analysis of risk patterns, primary outbreaks versus secondary or tertiary ones, and pathways of disease spread.

In response to these comments, APHIS revised the presentation of the quantitative model. These revisions appear in Section I of the 2000 analysis. The document was reformatted to conform more closely with OIE guidelines, and includes a list of mitigation options. APHIS also clarified the description of the quantitative model and clearly identified data sources. Sensitivity analysis was conducted on some input values.

In addition, APHIS requested additional data from the EU to support a spatial and temporal analysis. Data collected included an update of the epidemiological information on which the 1999 analysis was based, as well as new information on the origin of outbreaks in space and time, disease surveillance in feral swine and wild boars, patterns of animal movement, maps of local veterinary administrative units in areas where outbreaks occurred, and information on herd and animal density. APHIS performed a spatial and temporal analysis that was presented as Section II of the revised analysis.

Comment: Will the risk analysis be reviewed and updated by APHIS in the event additional countries join the EU?

Response: In the event additional countries join the EU, we will initiate an assessment of CSF risk from those countries upon request by the EC. If, based on such a risk assessment, we believe restrictions from those countries with regard to CSF could safely be relieved, we would propose such a change through notice and comment rulemaking.

Comment: In calculating risk, the risk analysis factored in a ''risky period'' of 35 days following an outbreak, during which the disease may or may not be identified. Because the clinical signs of CSF are the same as for a number of other swine diseases, identification of CSF could be delayed. How would the probabilities of CSF introduction into the United States change if a 42-day risky period is used?

Response: The analysis incorporated the actual difficulties the Netherlands encountered in detecting CSF in 1997 as well as the actual detection difficulties of other EU Member States throughout the epidemic. The risky periods included in the analysis and described under variable ''b'' for each of the three models of the risk analysis were: (a) the Netherlands, 35 days; (b) the Lerida province in Spain, 53 days; (c) the Segovia, Madrid, and Toledo provinces in Spain, 7 to 21 days (most likely 10 days); (d) Belgium, 42 days; (e) Italy, 21 days; (f) Germany, 7 to 21 days (most likely 10 days). Therefore, the maximum risky period considered in the analysis was 53 days based on Spain's experience, which is greater than the 42 days suggested by the commenter. The risky period for any specific Member State was not analyzed individually, but rather was incorporated into an overall probability distribution of the risky period for all of the EU Member States under consideration. This probability distribution and its derivation are described in the risk analysis document. While the commenter is correct that problems with detection ability could be compounded even further in the United States, it is only the EU's ability to detect CSF that is being examined in the risk analysis.

Comment: In the EU in 1997, 611 outbreaks of CSF were confirmed, and 103 of the 611 were in farms outside protection zones established during the

outbreaks. Although, in its risk analysis, APHIS considered the remaining 508 herds as not contributing to further spread of the disease during the ''risky period,'' experience with disease movement through a variety of pathways indicates that CSF would be expected to spread from the protection zones.

Response: The 103 outbreaks occurring outside protection zones include any spread that occurred from the 508 outbreaks inside the protection zones to outside the protection zones.

Comment: APHIS stated in its risk analysis that an area can be designated as CSF-free if a case of CSF has not been detected for at least 6 months. What changes in the risk analysis would result if new criteria with a shorter length of time were established as the standard APHIS would use?

Response: The 6-month period referred to by the commenter is longer than the time that actual protection zones were maintained in the EU after the last case of CSF occurred in the zone. The risk analysis was based on the actual times the protection zones were maintained. Therefore, if a 6-month waiting period were applied, the risk would be reduced to levels below those estimated in the analysis. The additional mitigative effect of the longer 6-month waiting period could not be explicitly incorporated into the risk estimates because of the lack of actual observations on which to base such estimates.

Comment: In its risk model for breeding swine, APHIS assumed that each shipment of breeding swine for export originated from only a single farm. Is this a valid assumption? How would the probability of disease introduction change if this assumption were not made?

Response: APHIS made the assumption based on data available from the United Kingdom and Denmark. Import records showed that most shipments from these EU Member States originated from a single herd. APHIS was unable to obtain specific information for other Member States, so we assumed for the purposes of the risk analysis that each shipment was represented by one breeding herd. For a given number of imported breeding animals, any increase in risk caused by increasing the number of herds would be largely offset by the decrease in risk resulting from decreasing the number of animals selected per herd. The overall effect of a small increase in the number of herds of origin would be expected to be negligible, given the following: (1) The low within-herd prevalence that is likely for an undetected infected herd; (2) breeding animals would not likely be shipped if there were evidence of any type of infection in the shipment, regardless of whether an animal had been specifically identified as being infected with CSF; and (3) the overall number of imported animals is held constant.

Comment: Will this final rule change the quarantine and testing protocols for breeding swine imported into the United States?

Response: This final rule will change the listing of regions we consider to be affected with CSF and will affect the requirements an exporting region would have to meet in the absence of any other disease restrictions applicable to swine and swine products. It will not affect the current quarantine and testing protocols for breeding swine imported into the United States. If breeding stock is imported into the United States from regions in the EU considered to be free of CSF, the animals would still be required to undergo preembarkation and post-importation quarantine to ensure that they are not affected with brucellosis, tuberculosis, or pseudorabies.

Comment: In its sensitivity analysis, APHIS appeared to gauge changes in one variable independently of changes in another. For instance, the analysis determined the effect of varying the proportion over time of infected breeding farms exporting to the United States independently of determining the effect of varying the probability that an animal in a CSF-infected herd is infected with CSF. APHIS should evaluate concurrently these changes to the model to determine their simultaneous effect on the probability of one or more CSF incursions in a year.

Response: The purpose of the sensitivity analysis was to demonstrate the effect of changing individual input values in the model. The most likely risk estimates changed only minimally as a result of changing either of the two input values mentioned by the commenter, and changing both simultaneously would not be expected to result in a more substantial change. Although the range of uncertainty in the risk estimates did change substantially (a nine-fold change) by changing the distribution used for the input value ''Effect of varying the proportion over time of infected breeding swine farms exporting to the United States,'' this change too would not be substantively affected by changing both input values simultaneously.

Comment: The beta distribution (a probability distribution that is used to estimate the variability around a proportion) used to describe the relationship of the model term g/h (the probability that a randomly selected breeding herd has undetected CSF) in the breeding swine model could be viewed as too conservative to adequately describe the expected outbreak frequency, and a triangular distribution (a calculation of the minimum, most likely, and maximum estimate) that uses a more realistic description of the 1997 outbreak in the Netherlands is required. The analysis underestimated the number of herds that would become infected before the disease was diagnosed. An estimate of the number of herds infected during this ''risky period'' should be used for ''g'' (the number of infected breeding herds with undetected CSF) and provide a basis for determining the parameters of the triangular distribution.

Response: We disagree with the commenter's suggestion to use a triangular rather than a beta distribution to represent the variability around the proportion g/h. The use of a beta distribution to represent this variability is consistent with well-established statistical theory. A triangular distribution is generally used to represent a rough guess in the absence of actual observational data and has no theoretical foundation.

Comment: The risk analysis indicated a ''maximum'' result of one CSF incursion in breeding swine every 4,880 years, but a ''most likely'' result of one CSF incursion every 33,700 years. How does APHIS view the differences in the values?

Response: As noted above, the numerical values suggest that frequency of introduction by any commodity that was considered in the analysis, even with no import mitigations applied, was extremely low.

Comment: What does APHIS consider the estimated sensitivity of the serologic assay(s) being considered in the model? If the sensitivity is anything less than 100 percent, it should be included in the development of the model.

Response: The sensitivity of the serological assay for CSF in the EU is estimated at between 85 and 95 percent. However, since serological testing was not considered in the risk analysis as a potential mitigation for imported breeding swine, there was no need to include such an estimate in the model. If the commenter's question is regarding the EU's ability to detect CSF in its surveillance activities, it should be noted that risk analysis was based on a retrospective evaluation of the EU's actual detection success in the 1997–98 epidemic. Therefore, an estimate of the sensitivity of the serological assay was not required. Only evidence of the

observed success rate in detection and control, or, in other words, the measurements of the risky periods, was needed.

Comment: In its June 1999 risk analysis, APHIS stated that the starting risk level of CSF introduction by swine semen was 1 or more incursions in an average of 1,842 years, but that holding semen donor boars and observing them clinically for 40 days after semen collection reduced this likelihood to 1 or more outbreaks in 257.7 million years. In its December 2000 risk analysis, APHIS states that holding the swine for 40 days would result in a risk estimate of 1 or more incursions in an average of 8,090 years. How does APHIS explain the discrepancy between the first and the second analysis?

Response: In the June 1999 risk analysis, the 40-day holding period included the additional estimated mitigative effect of multiple animals being held together during the 40-day period. In other words, the June 1999 analysis incorporated a sentinel effect that required only one of the group of animals being held together to show observable signs of infection for detection to occur. In the revised December 2000 risk analysis, this sentinel effect was dropped from the analysis. The December 2000 risk analysis assumes that only one animal is held and is based on whether this specific animal shows observable signs. Dropping the sentinel effect from the analysis results in a substantial increase in the estimated risk. Although we believe this overestimates the risk, the sentinel effect was dropped from the analysis because there were no substantiated data available to support an estimate of the number of animals that might be held together. The assumption of no sentinel effect is described in the analysis in the discussion of variable ''k''.

Comment: APHIS stated in its risk analysis that additional mitigation could be accomplished by employing serological testing. APHIS, therefore, should evaluate the change in risk that would occur if such testing were required. During the 1997 CSF outbreak in the Netherlands, some boars in a semen collection center that were initially considered not to be infected with CSF, based on the absence of clinical signs, were tested the following day and found to be infected. It appears an outbreak of CSF in the semen collection center followed the transport of some boars into the center in the same means of conveyance used earlier for sows from a presumed infected farm. This apparent biosecurity problem raises questions about the assumptions used in the model in the risk analysis.

Response: The risk analysis included the fact that the CSF agent was introduced into the semen collection center during the risky period-*i.e.*, prior to CSF detection and control in the Netherlands. This information was incorporated into variable ''g'' (the number of affected swine semen collection centers with undetected CSF) in the swine semen model. Therefore, the breakdown in biosecurity that occurred and the unclear clinical signs that were presented were already accounted for in the risk analysis model, which prompted the proposed inclusion of a 40-day holding period on swine semen before export. Based on the reduced level of risk when such a holding period is required, we see no reason to additionally evaluate the effect of requiring the serological testing referred to by the commenter.

Comment: Many of the approved swine semen collection centers in the EU are located in Spain, Germany, and France, all countries in which CSF outbreaks have occurred relatively recently.

Response: As noted above, we are continuing to apply import prohibitions due to CSF on those parts of countries or entire countries where a CSF outbreak has occurred since our June 1999 proposal. As we discussed earlier, included in such areas are Spain, France, parts of Germany, and Luxembourg.

Comment: In establishing the eligibility of the semen of a boar for export to the United States, is it required that no new boars enter the stud (the semen collection facility) during the 30-day isolation period and 40-day incubation period of the specific donor boar in question. Is serologic testing a component of the isolation and incubation protocol?

Response: Serologic testing and isolation of boars is required by the EU prior to the boars entry into the semen collection center. Once the semen is collected, whether the boars are kept isolated will not have any significant effect on import risk.

Comment: In evaluating the sensitivity of its risk model (*i.e.*, its determination of how variations in input data affect probability outcomes), APHIS stated that it ''considered a distribution to address uncertainty unnecessary since the assumptions used reflected a situation worse than there were data to support.'' This statement seems to contradict itself, because a major justification for conducting a sensitivity analysis is the lack of a good estimate for a variable.

Response: The statement in the risk analysis that the commenter is referring to was in regard to only one scenario of the sensitivity analysis. In that scenario, the point estimate of the number of infected semen centers exporting semen to the United States was doubled in order to see the effect on the risk estimates. This scenario was created to isolate the effect of altering the number of semen centers that were infected, which could best be accomplished by comparing the model results using two alternative point estimates. However, another scenario was also run, and is documented in the risk analysis, where a probability distribution (specifically a beta distribution) was used to represent the number of infected semen centers. We devoted attention to running multiple scenarios for the number of infected semen centers because we viewed this factor as a critical model variable.

Comment: If the risk ''maximum result'' were selected in the analysis, the result would be an expected frequency of a CSF incursion due to imported semen every 694 years, in contrast to every 1,840 years for the ''most likely value.'' The sensitivity analysis varying the probability of an animal as CSF infected in a CSF-infected center results in a ''most likely value'' of one or more incursions every 903 years, and a ''maximum value'' of one or more incursions every 278 years, which are similar to the values for the scenario of an approved semen center becoming infected with CSF every year. Considering this level of risk, what would be the impact on risk to assume mitigation measures in addition to the 40-day hold on semen included in the proposed rule?

Response: The value referred to by the commenter was determined before any mitigating measures were introduced into the risk calculations. With the introduction of a 40-day waiting period before semen may be exported, even the maximum value is no more than one or more incursions every 2,430 years. However, the most likely value for the expected frequency is one or more incursions every 8,090 years.

Comment: Because semen seems to pose the highest risk of all swine commodities considered for export to the United States, it could be considered important to survey the U.S. industry regarding the types of importations that are likely in the future, in order to ensure that the assumptions that were used in the model are appropriate for future importations. The commenter suggested such survey information might include countries and other regions from which imports would be

requested, the number of doses likely, and the number of boars per shipment.

Response: In compiling data for the risk analysis, APHIS contacted several major breeding companies regarding their plans for importation. Although the companies gave no indication at the time of significant plans for importations, the risk analysis nonetheless assumed that such importations would occur.

Comment: APHIS stated that requirements for inspection by the Department's Food Safety and Inspection Service (FSIS) would reduce the risk of importing infected product into the United States even further than estimated in the risk analysis. Are there any rapid testing protocols, or pathognomonic (distinctly characteristic) lesions or clinical signs, that would lead an FSIS inspector to be concerned about CSF infection in a particular animal or pork product?

Response: There is no commercially practical test for the CSF virus in meat and meat products. Our statement in the proposed rule addressed ante- and post-mortem inspection of animals. Such inspection evaluates the general health of the animal to be slaughtered. One of the common characteristics of CSF is a high percentage of a swine herd sick at the ante-mortem stage. In addition, high temperature and purplish discoloration of the abdominal skin may be noticed. CSF does cause lesions on various organs that can be detectable post-mortem. Although we noted the benefit of inspection, the effect of such inspection was not considered in our risk analysis.

Comment: APHIS should explain why more emphasis was not applied to interpreting the ''maximum likelihood'' estimates regarding the risk of CSF introduction into the United States in addition to or rather than the ''most likely'' estimates. In risk evaluations, an evaluation of the range around the ''most likely'' estimate should carry as much weight as an evaluation of the ''most likely'' estimate itself.

Response: The most likely risk estimates were highlighted as the central tendencies of the model output distributions. However, maximum risk estimates (as well as minimum, mean, and median estimates) were also presented as part of the output of each scenario that was run for each model. In this way, readers had full information about the central tendencies and the ranges of the model outputs. However, the maximum risk estimates are obtained from the extreme tail of the probability distribution. The tail of the distribution represents an extremely small area relative to the area representing the central mass of the distribution from which the most likely estimate is obtained.

Comment: Given the difficulty and subjectivity involved in determining the value of variables for use in the risk model, and the magnitude of the effect of the variables on the final risk estimate, it may be useful to conduct a Delphi Survey (a survey of the opinions of experts on a particular topic) to ascertain ranges of estimates for prospective risk A sensitivity analysis could then be completed that combines the range of estimates (and the variation around the estimates) for the model inputs. This would allow APHIS to use data regarding CSF outbreaks since the December 2000 risk analysis was written, which would, in turn, allow the model to have more value for application to potential future CSF situations in the EU.

Response: Most of the data used in the risk analysis were generated during an extremely severe CSF epidemic that occurred in the EU in 1997 and 1998. As discussed in the risk analysis, this CSF epidemic is considered the most severe the EU has ever experienced. By using actual data from this epidemic rather than using estimates based on expert opinions obtained through a Delphi Survey, the risk assessment provides a more cautious estimation of the potential risk. The risk estimates generated in the analysis took into account the effectiveness of EU control measures, and if and where those measures failed, under these severe conditions. The risk analysis therefore anticipates future situations in the EU where CSF epidemics reach up to the same magnitude and the same level of detection and control failures as occurred during the 1997–98 epidemic. Given that recent CSF epidemics are of a smaller magnitude and have fewer failures in detection and control, they fall within the expectations of the current risk analysis. Incorporating the data from these recent epidemics into the analysis would likely reduce the estimated risk.

Comment: APHIS acknowledges the impact of the sensitivity analysis on the models but does not present the final risk estimations resulting from the sensitivity analysis. APHIS should publish the final risk estimates for the three models.

Response: A summary of the final risk estimates for all three models is presented in the executive summary of the risk analysis report. The full details of these estimates are presented throughout the text of the report. The risk estimates for each sensitivity analysis are reported in the sensitivity analysis section. The sensitivity analyses were conducted to show how the final risk estimates might change under alternative assumptions regarding input values. As such, the results of the sensitivity analyses stand alone rather than as adjustments to the final models.

Commenter: The model does not account for the impact of intraregional spread (such as five herds being infected at one time). This, combined with the use of a conservative beta distribution to describe the proportion of infected herds from which animals are exported to the United States over time (g/h), biases the model toward underestimating the true risk to the United States. Is APHIS considering this aspect?

Response: As we discussed in the sensitivity analysis section of the risk analysis regarding swine semen, the beta distribution for the input value g/h is considered conservative in the sense that it likely contributes to overestimating the risk. Also, as discussed in the risk analysis, the CSF epidemic that provided the data for the analysis is considered the most severe the EU has ever experienced. Incorporated into the risk estimates based on this epidemic are six different risky periods representing index cases in six discrete locations in the EU: the Netherlands, Italy, Belgium, Germany, and two separate locations in Spain (the risky period is documented under input value b in the models). Since the models are exclusively based on the time period during which this severe epidemic occurred and do not incorporate any ''peace time'' periods, the model is actually biased toward overestimating the risk.

Comment: The risk analysis report, despite referring to the importance of the wild boar reservoir in maintaining the CSF virus in a region, concludes that the ''risk of importing CSF-infected material from areas of the EU that are in close proximity to infected wild boar is not greater than the risk of importing infected material from areas that are geographically distant from primary outbreaks caused by wild boar.'' Have statistical tests been applied to the available data to provide a quantitative assessment of the risk posed by wild boar to EU herds? APHIS should review its previous assumptions about the role of wild boars with regard to the risk of importing infected or contaminated animals or products.

Will semen be allowed to be imported into the United States from an area in the EU that is designated by the EU to be ''wild boar control area'' (*i.e.*, an area in which CSF has been diagnosed in feral swine and in which domestic

swine have consequently been placed under surveillance and in which specified measures are being taken to protect domestic swine from infection by feral swine)? How will APHIS requirements change as EU wild boar control areas change?

The site visit report notes that a seropositive wild boar was detected in 1999 in the Netherlands. Are there wild boar control areas in that country? Additionally, Italy has a significant wild boar population that overlays the main pig-producing areas. Although Italy has had no reported CSF outbreaks in 2002, it had several outbreaks each year previously.

Response: Swine semen will be allowed to be imported into the United States from a wild boar control area. As discussed in the spatial and temporal section of the risk analysis, some of the outbreaks in domestic swine follow domestic animal movement or related pathways in the EU. The analysis documented that the number of outbreaks and the extent of undetected CSF spread associated with these pathways are actually greater than those that have been associated with disease originating from direct contact with infected wild boar and any associated proximity spread.

The clearest examples of these associations are evident in the outbreaks that occurred in the Netherlands and in Germany. The primary outbreak for the epidemic in the Netherlands actually occurred in Paderborn, Germany. The Netherlands outbreaks were linked to infectious material from Germany that contaminated a Dutch lorry. The improperly disinfected truck carried infectious material back to the Netherlands after transporting pigs in the Paderborn area of Germany. In this epidemic, secondary spread occurred through the movement of an empty truck into the Netherlands, where additional spread took place from a variety of causes, including the movement of swine, people, equipment, and semen for artificial insemination. Due in part to the Netherlands' relatively long risky period (the period before the disease was detected and controls implemented), a total of 429 outbreaks occurred in the Netherlands during this epidemic.

In contrast, in Germany during the same time period there were 56 outbreaks. Fourteen of these were primary outbreaks (due to either contact with wild boar or unknown causes that may have been contact with wild boar) with very little secondary spread, in contrast to the enormous secondary spread that occurred in the Netherlands. The outbreaks in Germany occurred primarily in areas that were already under EU restriction because disease had been detected in wild boar. As discussed in the analysis, APHIS attributed the relative lack of disease spread in Germany to movement restrictions and increased surveillance and control mechanisms, which were required by EU legislation and also conducted in part due to the presence of infected wild boar. During 1997 and 1998, Germany had a much shorter risky period than the Netherlands, with far less undetected and uncontrolled secondary spread. APHIS requirements will not change as wild boar control areas change. In response to the commenter's question, there are no wild boar control areas in the Netherlands.

All of these factors led to the conclusion that the risk to the United States of importing CSF-affected swine or swine products is not greater for imports from areas in close proximity to wild boar than it is from areas like the Netherlands that had more difficulty detecting a CSF incursion and had substantially greater secondary spread before the disease was detected and controls implemented. In short, CSF is found and controlled more quickly in areas of the EU where it is expected to be found, such as in close proximity to wild boar in Germany, than it is in areas where it is not expected to be found, such as in the Netherlands. The greater risk to the United States is from those areas with longer risky periods and substantially greater undetected secondary spread.

No statistical or quantitative methods have been applied to estimate the risk to EU herds from wild boar, because the focus of the risk analysis was on the risk to U.S. herds rather than EU herds.

Comment: Local veterinary units are important in local CSF eradication efforts. Are methods employed by the local veterinary units standardized and monitored by a central authority?

Response: Local veterinary units are subject to the national rules and regulations of the EU Member State in which they are located, as well as the relevant EU animal health legislation. National contingency plans must be reviewed and approved by EC authorities. Within these constraints, protection zones and surveillance zones are often established based on the boundaries of the local veterinary units.

Comment: Are reports from the EU Standing Veterinary Committee the best source of current listings of EU restrictions on swine movement due to a high prevalence of seropositive wild boars? What information will be made available to APHIS to allow it to adjust its listing of infected regions?

Response: As standard practice, there is direct communication between the EC and APHIS within 24 hours of an outbreak. Such information is then compiled in the reports of the EU Standing Veterinary Committee.

Comment: It would be helpful if all documentation submitted in support of a regionalization request that is posted to the APHIS Internet website be in English.

Response: We agree with the commenter. Under § 92.2, submission of information required by the regulations to accompany a regionalization request must be in English. We are encouraging countries requesting regionalization to provide English translations of all supporting documentation.

Comment: In its site visit report, APHIS noted that detailed reports on six CSF outbreaks that occurred in 1999 were reviewed and that all six occurred within previously established protection or surveillance zones. The report also notes that data from 2000 was presented but was not detailed. Was there anything of interest in the information from the 2000 outbreaks?

Response: Two CSF outbreaks occurred in domesticated swine in Germany in 2000. The two outbreaks were in Kreis Bernkastel-Wittlich (landers of Rhineland Palatinate) and were included on the maps in the spatial and temporal section of the risk analysis. Both outbreaks were situated in an area where there had been long-standing movement restrictions on domesticated swine due to CSF in wild boar. Therefore, these outbreaks would have posed no substantive risk to the United States.

Comment: Since January 2002, the EU has been responding to continuing CSF outbreaks in Germany by increasing the size of the areas from which exports of live swine and semen are not allowed. In light of such an evolving situation, has APHIS considered conducting a ''test exercise'' to review how the agency would apply its import restrictions and procedures? Has the evolving situation altered APHIS'' view of the adequacy of the EU disease control procedures?

Response: With regard to the recommendation of a ''test exercise,'' APHIS has ongoing experience in responding to outbreaks of animal diseases of concern in foreign regions, including such serious diseases as CSF and FMD, and will continue to take the measures necessary to ensure that such diseases are not introduced into the United States. With regard to how the evolving disease situation in the EU affects APHIS' conclusions regarding disease risk, as noted earlier, the risk

analysis upon which the June 1999 proposed rule was based took into consideration the most serious CSF situation in EU history. Any disease outbreaks since then have not been of the severity of the 1997–1998 outbreaks.

Comment: Although EU regulations restrict trade in domestic pigs from specified wild boar areas in Germany to other EU Member States, trade is allowed to other regions of Germany with some restrictions. How does the risk analysis account for the risk of the spread of CSF within Germany from such movement?

Response: The risk analysis took into account all CSF outbreaks in Germany that occurred outside of any established restriction zones. Therefore, any undetected outbreaks outside such zones that resulted from domesticated swine movement within Germany were considered to be part of the population of herds from which the United States could potentially import. These outbreaks were included in the risk estimates as part of variable ''g'' in the breeding swine and swine semen models, and variable ''P_1'' in the pork model.

Comment: Does a 2002 outbreak in France in domestic swine exposed to infected wild boar change APHIS'' conclusion in the risk analysis that areas containing infected wild boar can be considered CSF-free for export? The outbreak in France additionally calls into question the statement made in the risk analysis report that no CSF outbreaks in France had been attributed to wild swine during the 7 years prior to development of the risk analysis.

Response: Obviously, areas that have had recent outbreaks of CSF in domesticated swine, such as the area in France, would not be considered for recognition of CSF freedom until the waiting periods discussed in the proposed rule had elapsed. The risk analysis itself did not deal directly with declarations of disease freedom, but rather dealt with the risk to the United States of outbreaks that occurred outside any established EU restriction zones. As discussed in responses to comments above, the risk analysis anticipates future situations in the EU where CSF epidemics reach the same magnitude and the same level of detection and control failures as occurred during the 1997–98 epidemic. Given that recent CSF epidemics are of a smaller magnitude and have fewer failures in detection and control, they fall within the expectations of the current risk analysis.

Comment: How can APHIS support its statement in the risk analysis that the 1997–98 CSF outbreak in the Netherlands was ''unique'' and did not serve as a very good model of how CSF can be introduced into or spread within the region? What made this situation and a 2000 outbreak in East Anglia in the United Kingdom unique and unlikely to recur? Many of the factors that APHIS considered in judging the Netherlands outbreak to be unique have not and will not change, such as highly concentrated production, dependence on pig transport between farm sites and regions, and insufficient rendering capacity.

Response: The 1997–98 EU CSF epidemic is considered unique in its magnitude and scope because nothing comparable has occurred before or since. As noted above, this CSF epidemic is considered the most severe the EU has ever experienced. The computer model for the risk assessment alone is not intended to predict all possible future scenarios. APHIS intends to monitor the animal health situation in the EU and periodically review the parameters of the risk assessment model to determine if the situation in the EU has changed sufficiently to alter the findings of the assessment.

Comment: Although the site visit report indicates the Netherlands has instituted additional restrictions on handling semen, transporting live animals, and biosecurity practices, no information was presented on the measures taken at semen centers in other countries or regions.

Response: The risk analysis regarding CSF in the EU region, and the additional mitigations we proposed for the importation of swine semen, were based on the situation prior to any changes in biosecurity measures in the Netherlands. Any increases in biosecurity there and in other countries will serve to lower the assessed risk, but were not depended upon to bring the risk of CSF to an acceptable level.

Comment: The site visit report noted that a surveillance zone was established in Luxembourg in 1999 due to CSF in a neighboring area in Germany. It is not clear if movement restrictions are in place for domestic swine in the surveillance zone.

Response: Movement restrictions are in place for domestic pigs in the surveillance zone, and swine are not permitted to be moved until they are tested by both serology and virology.

Comment: Although the United Kingdom had originally been considered a low-risk area, a CSF outbreak there in 2000, coupled with the FMD outbreak in 2001, indicates disease control measures there are not adequate.

Response: The United Kingdom was not included in the region under consideration in our June 1999 proposal. We have addressed the disease outbreaks in the United Kingdom separately from the those in the region under consideration.

Comment: The commenter stated that because of recent CSF outbreaks in Spain, the EU extended its implementation of restrictive measures in that country.

Response: As we discussed above, CSF outbreaks in the EU region in question since publication of the proposed rule have been of a smaller magnitude, and have had fewer failures in detection and control, than during the 1997–1998 epidemic and fall within the expectations of our risk analysis. It should be noted, however, that because the outbreaks in Spain occurred after the publication of the proposed rule, and the public has not had the opportunity to formally comment on any CSF classification of Spain following those outbreaks, we are not including Spain in this final rule as a country in which CSF is not known to exist.

Comment: Will any of the risk mitigation measures in the proposed rule be applied to countries that have already been recognized as free of CSF?

Response: The scope of the risk analysis explicitly excluded those EU Member States that APHIS had already recognized as CSF free.

Comment: Would APHIS prohibit imports from areas under EU restrictions due to wild boar infections when the EU allows trade with restrictions within the country in question, even though it prohibits trade to other Member States?

Response: In this final rule, we are amending part 92 of the regulations to add a new § 92.3, as proposed, that provides that whenever the EC establishes a quarantine for a disease in the EU in a region that APHIS recognizes as one in which the disease is not known to exist, and the EC imposes prohibitions or other restrictions on the movement of animals or animal products from the quarantined area in the EU, such animals and animal products are prohibited importation into the United States.

Change in Terminology

We are making a change in this final rule to reflect current terminology regarding who receives certificates at the port of arrival. In § 94.23(c), instead of referring to ''collector of customs,'' we refer instead to ''appropriate Customs and Border Protection Officer.''

Therefore, for the reasons given in the proposed rule and in this document, we are adopting our June 1999 proposed rule as a final rule, with the changes discussed in this document.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule recognizes a region of the EU as one in which CSF does not exist. Additionally, it recognizes Greece and certain regions of Italy as areas in which SVD does not exist. Although restrictions on the importation of animals and animal products from these regions may continue because of other diseases, a number of restrictions due to CSF and SVD are no longer warranted for imports from the areas. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This rule recognizes a region in the EU as one in which CSF is not known to exist, and from which breeding swine, swine semen, and pork and pork products may be imported into the United States under certain conditions. Additionally, it recognizes Greece and four Regions in Italy as free of SVD. These actions are based on a request from the EC's Directorate General for Agriculture and on our review of the supporting documentation supplied by the EC and individual EU Member States. These actions will relieve some restrictions on the importation into the United States of certain animals and animal products from those regions that are imposed because of CSF and SVD.

In considering this rulemaking, we considered three options. The first, which we could have applied to all the diseases addressed by this rule, was to retain the current regulations and make no changes. We did not consider this an acceptable option because it was not warranted by the disease situation in the regions in question and such inaction would have been contrary to U.S. obligations under international trade agreements. A second option, specific to CSF, was to allow free movement of swine, swine semen, and pork from the region we are recognizing as one in which CSF does not exist. Based on our risk analysis, however, we concluded that adopting that option would lead to an unacceptable risk of introducing CSF into the United States. Therefore, we chose our third option, which was to adopt the provisions of this rule.

Below is a summary of the economic analysis prepared for this rule. The economic analysis provides a cost-benefit analysis as required by E.O. 12866 and an analysis of impacts on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis is available by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Recognition of an EU Region as One in Which CSF Does Not Exist

The analysis with regard to CSF examines the economic impact of the potential importation of fresh (chilled or frozen) pork, breeding swine, and swine semen from a region in the EU that this rule recognizes as one in which CSF is not known to exist.

This is in accordance with the policy of ''regionalization,'' whereby import requirements are tailored to regions that are determined by science-based risk factors, rather than political boundaries.

Five EU Member States that are already recognized in the current regulations as being regions in which CSF is not known to exist are excluded from this analysis, because the regulations governing CSF do not currently restrict their pork, live swine, and swine semen exports to the United States.

Potential Importations of Pork

Potential exports to the United States from the seven EU Member States considered (Austria, Belgium, parts of Germany, Greece, parts of Italy, the Netherlands, and Portugal) constitute the trade volumes used in the analysis, assuming no risk of disease introduction. For pork, the import levels used in the analysis are based on the proportion of Denmark's global pork exports that are imported into the United States. It is assumed that a similar percentage of the global pork exports of each of the EU Member States will be exported to the United States. The total quantity of pork assumed is about 15,158 metric tons. For breeding swine and swine semen imports, the import levels used in the analysis are based on historical data and prior U.S. demand for EU swine genetic stock.

Current U.S. pork import levels suggest that imports resulting from this rule are likely to be minimal. The import levels used in the analysis allow for an analysis of potential economic effects if market conditions were to change in favor of U.S. imports of EU swine and pork and pork products. Estimated effects on producers and consumers reflect the expected effects of these imports, assuming no disease risks.

Although we expect that the economic effect of this rule will be minimal, we used a net trade benefit model to evaluate what would happen should trade occur. Benefits to the United States of pork imports from the EU Member States considered are calculated as the net change in consumer surplus and producer surplus. Assuming an import volume of 15,158 metric tons of pork, the annual net trade benefit is estimated to be about $228,000 (2001 dollars). Based on data on domestic pork production and prices for the period 1997 to 2001, the welfare changes in consumer surplus and producer surplus would reflect about a 0.1 percent decrease in U.S. pork production, a 0.1 percent increase in pork consumption, and a 0.1 percent decrease in the farmgate price of pork.

Potential Imports of Breeding Swine

The marginal benefit, in terms of productivity gains, from future imports of EU breeding swine is expected to be minimal, given the ready availability of improved genetic lines in both the United States and Canada. Over the 8-year period from 1994–2001, over 98 percent of breeding swine imports into the United States came from Canada, and only about 1.2 percent came from the European Union. The breeding swine that were imported from the EU came almost entirely from Denmark and the United Kingdom, countries that are unaffected by this rule. We used the number of breeding swine imported from Denmark and the United Kingdom to establish a recent average and a reasonable upper bound for potential imports from the EU Member States of concern. The average number of breeding swine imported annually from Denmark and the United Kingdom is 440. The minimum number imported was zero in 2001, and the maximum was 1,299 imported in 1997. It is assumed that 200 breeding swine per year may be imported from the newly recognized region in which CSF is not known to exist.[2]

APHIS does not record the percentages of imported breeding swine that are boars and gilts. For the purposes

[2] Although projected import quantities for breeding swine and swine semen used in this analysis were approximated independently of those used in the risk assessment, similar assumptions were followed in both analyses.

of benefits estimation, we assume that one-third of imports are boars and two-thirds are gilts. Therefore, the most likely future annual average of imported boars is assumed to be 67, and of gilts is assumed to be 133. Assuming minimal expected benefits from productivity gains, benefits to the United States from importation of EU breeding swine can most readily be quantified in terms of the unit values of the imports. It is assumed that, at a minimum, producers would expect to pay about $1,000 to import a single EU breeding gilt and possibly $2,800 to import a single EU breeding boar, including transportation and quarantine costs. There is a great deal of variability in both the prices of individual animals, due to product differentiation, and in the cost of transportation, which may be negotiated with individual contract carriers. Multiplying assumed quantities and unit values yields a most likely import value of $187,600 for breeding boars and a most likely value of $133,000 for breeding gilts imported from the EU region affected by this rule.

Potential Imports of Swine Semen

During the period 1997–2001, the source countries and quantities of swine semen varied widely from one year to the next. The single largest exporter to the United States during this period was Australia, which averaged 1,045 doses per year, or 43 percent of the total. Canada supplied an average of about 672 doses per year, or 28 percent of the total. An average of about 680 doses were imported each year from the EU–28 percent of the total. In 2001, 1,736 doses came from Germany, one of the Member States that constitute the region affected by this rule. During the first 9 months of 2002, the only swine semen imports from the EU were 780 doses imported from Denmark.

A wide range of prices for swine semen reflects considerable product differentiation in the market for swine genetics. Quoted prices for swine semen from a small sampling of producers range from $6 to $50 per dose. It is presumed that the higher priced semen represents the greater perceived benefit to U.S. swine products. In addition to the price per dose, buyers must pay for packaging materials and shipping costs, although these costs constitute a small fraction of the overall cost. A typical shipment of swine semen would be 30 doses packed in a cooler. Packing materials, including cooler, are available for about $15 per shipment. A 15-pound packed cooler can be shipped between the United States and the EU for about $200. The value of a 30-dose shipment of swine semen is therefore assumed to be $1,715. Using that value, annual values of swine semen imported from the region affected by this rule are expected to be approximately $40,000.

Regarding the effects of the rule on small entities, more than 88 percent of all U.S. hog farms meet the U.S. Small Business Administration size criterion for small entities of annual revenues of less than $750,000. Pork, breeding swine, and swine semen imports from the region in question are unlikely to be significantly affected by this regulatory change, which could cause an average annual effect on small entities of less than 0.1 percent of average gross revenue.

Recognition of Greece and Certain Regions in Italy as Free of SVD

We are also recognizing Greece and four Regions in Italy as free of SVD. Recognition of Greece and certain Regions in Italy as free of SVD will remove U.S. import restrictions because of this disease with respect to pork and live swine. This analysis examines potential effects of this rule on U.S. entities by comparing global trading patterns of Greece, Italy, and the United States for these commodities.

International trade statistics for swine, pork, and pork products are available for Greece and the United States, but not specifically for the four Regions in Italy. Given the unavailability of individual regional trade statistics for the Regions in question, we based our analysis on swine, pork, and pork products for Italy as a whole. Because Italy has a total of 20 Regions, conclusions regarding likely minimal export effects for the four Regions are all the more valid.

Both Greece's and Italy's swine, pork, and pork imports far outweigh their exports. During the period 1996 to 2000, the annual value of Italy's imports of swine, pork, and pork products averaged more than $1.2 billion more than the value of its exports of swine, pork, and pork products. For Greece, the annual value of its imports of swine, pork, and pork products averaged more than $250 million more than the value of its exports. In contrast, during the same period, the United States annually averaged approximately $6.2 million more in exports of breeding swine than in imports, and over $475 million more in exports of pork and pork products than imports. The United States is a net importer of swine other than breeding swine, with average annual imports, virtually all of which are supplied by Canada, valued at close to $274 million more than annual exports.

Small entities that might be directly affected by the SVD provisions of this rule are buyers and wholesalers of swine and pork products, and, indirectly, U.S. pork producers. However, as discussed above, prevailing trade patterns indicate that this rule will have little economic effect on U.S. entities, large or small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact were prepared for this rule. The assessment provides a basis for the conclusion that the importation of swine, swine semen, and other swine products from specified regions in Europe under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0218.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Region, Reporting and recordkeeping requirements.

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 98

Animal diseases, Imports.

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

■ Accordingly, we are amending 9 CFR parts 71, 92, 93, 94, 98, and 130 as follows:

PART 71—GENERAL PROVISIONS

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

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 71.3 [Amended]

■ 2. In § 71.3, paragraph (b) is amended by removing the words ''hog cholera'' and adding the words ''classical swine fever'' in their place.

PART 92—IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS: PROCEDURES FOR REQUESTING RECOGNITION OF REGIONS

■ 3. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 4. In § 92.1, a definition of *European Union* is added, in alphabetical order, to read as follows:

§ 92.1 Definitions.

* * * * *

European Union. The organization of Member States consisting of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Republic of Ireland, Spain, Sweden, and the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland).

* * * * *

■ 5. A new § 92.3 is added to read as follows:

§ 92.3 Movement restrictions.

Whenever the European Commission (EC) establishes a quarantine for a disease in the European Union in a region the Animal and Plant Health Inspection Service recognizes as one in which the disease is not known to exist and the EC imposes prohibitions or other restrictions on the movement of animals or animal products from the quarantined area in the European Union, such animals and animal products are prohibited importation into the United States.

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 6. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 93.505 [Amended]

■ 7. In § 93.505, paragraph (a) is amended by removing the words ''hog cholera'' and adding the words ''classical swine fever'' in their place.

§ 93.517 [Amended]

■ 8. In § 93.517, paragraph (a) is amended by removing the words ''hog cholera'' and adding the words ''classical swine fever'' in their place.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 9. The title of part 94 is revised to read as above.

■ 10. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

■ 11. Section 94.9 is amended as follows:

■ a. By revising the section heading and paragraph (a) to read as set forth below.

■ b. By removing the words ''hog cholera'' and adding in their place the words ''classical swine fever'' in following places:

■ i. Paragraph (b), introductory text.

■ ii. Paragraph (b)(1)(iii)(C).

■ iii. Paragraph (b)(1)(iii)(C)(1), both times they appear.

■ iv. Paragraph (b)(1)(iii)(C)(2), both times they appear.

■ v. Paragraph (c).

§ 94.9 Pork and pork products from regions where classical swine fever exists.

(a) Classical swine fever is known to exist in all regions of the world except Australia; Canada; Denmark; England, except for East Anglia (Essex, Norfolk, and Suffolk counties); Fiji; Finland; Iceland; Isle of Man; New Zealand; Northern Ireland; Norway; the Republic of Ireland; Scotland; Sweden; Trust Territory of the Pacific Islands; Wales; and a single region in the European Union consisting of Austria, Belgium, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenberg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Pŕm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsr̈che, the Kreis S̈dliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt); Greece; Italy (except for the Regions of Emilia-

Romagna, Piemonte, and Sardegna); the Netherlands; and Portugal.[10]

* * * * *

■ 12. Section 94.10 is amended by revising the section heading and paragraph (a) to read as follows:

§ 94.10 Swine from regions where classical swine fever exists.

(a) Classical swine fever is known to exist in all regions of the world except Australia; Canada; Denmark; England, except for East Anglia (Essex, Norfolk, and Suffolk counties); Fiji; Finland; Iceland; Isle of Man; New Zealand; Northern Ireland; Norway; the Republic of Ireland; Scotland; Sweden; Trust Territory of the Pacific Islands; Wales; and a single region in the European Union consisting of Austria, Belgium, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenberg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Prüm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsrücke, the Kreis Südliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt); Greece; Italy (except for the Regions of Emilia-Romagna, Piemonte, and Sardegna); the Netherlands; and Portugal. No swine that are moved from or transit any region where classical swine fever is known to exist may be imported into the United States, except for wild swine imported into the United States in accordance with paragraph (b) of this section.

* * * * *

■ 13. In § 94.12, paragraph (a) is revised to read as follows:

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

(a) Swine vesicular disease is considered to exist in all regions of the world except Australia, Austria, the Bahamas, Belgium, Bulgaria, Canada, Central American countries, Chile, Denmark, Dominican Republic, Fiji, Finland, France, Germany, Greece, Greenland, Haiti, Hungary, Iceland, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Panama, Portugal, Republic of Ireland, Romania, Spain, Sweden, Switzerland, Trust Territories of the Pacific, the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland), Yugoslavia, and the Regions in Italy of Friuli, Liguria, Marche, and Valle d'Aosta.

* * * * *

■ 14. In § 94.13, the undesignated introductory text is revised to read as follows:

§ 94.13 Restrictions on importation of pork or pork products from specified regions.

Austria, the Bahamas, Belgium, Bulgaria, Chile, Denmark, France, Germany, Hungary, Luxembourg, the Netherlands, Portugal, Republic of Ireland, Spain, Switzerland, the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland), Yugoslavia, and the Regions in Italy of Friuli, Liguria, Marche, and Valle d'Aosta are declared free of swine vesicular disease in § 94.12(a) of this part. These regions either supplement their national pork supply by the importation of fresh (chilled or frozen) meat of animals from regions where swine vesicular disease is considered to exist, have a common border with such regions, or have trade practices that are less restrictive than are acceptable to the United States. Thus, the pork or pork products produced in such regions may be commingled with fresh (chilled or frozen) meat of animals from a region where swine vesicular disease is considered to exist, resulting in an undue risk of swine vesicular disease introduction into the United States. Therefore, pork or pork products and ship's stores, airplane meals, and baggage containing such pork, other than those articles regulated under part 95 or part 96 of this chapter, produced in such regions shall not be brought into the United States unless the following requirements are met in addition to other applicable requirements of part 327 of this title:

* * * * *

§ 94.17 [Amended]

■ 15. Section 94.17 is amended by removing the words ''hog cholera'' and adding in their place the words ''classical swine fever'' in the following places:

■ a. The section heading.

■ b. Paragraph (b).

■ c. Paragraph (c).

§ 94.20 [Amended]

■ 16. In § 94.20, paragraph (c) and the introductory text of paragraph (e) are amended by removing the words ''hog cholera'' and adding in their place the words ''classical swine fever''.

■ 17. A new § 94.23 is added to read as follows:

§ 94.23 Restrictions on the importation of swine, pork, and pork products from parts of the European Union.

In addition to meeting all other applicable provisions of this part, live swine, pork, and pork products imported from the region of the European Union consisting of Austria, Belgium, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenberg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Prüm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsrücke, the Kreis Südliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt), Greece, Italy (except for the Regions of Emilia-Romagna, Piemonte, and Sardegna), the Netherlands, and Portugal must meet the following conditions:

(a) *Pork and pork products.* (1) The pork or pork products must not have been commingled with pork or pork products derived from swine that have been in any region when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist;

(2) The swine from which the pork or pork products were derived must not have lived in a region when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist, and must not have transited such a region unless moved directly through the region in a sealed means of conveyance with the seal determined to be intact upon arrival at the point of destination; and

(3) The pork and pork products must be accompanied by a certificate issued by an official of the national government of the region of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title, stating that the provisions of paragraphs (a)(1) and (a)(2) of this section have been met.[19]

(b) *Live swine.* (1) The swine must be breeding swine and must not have lived in a region when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist, and must not have transited such a region unless moved directly through the region in a sealed means of

[10] See also other provisions of this part and parts 93, 95, and 96 of this chapter and part 327 of this title for other prohibitions and restrictions upon importation of swine and swine products.

[19] The certification required may be placed on the foreign meat inspection certificate required by § 327.4 of this title or may be contained in a separate document.

conveyance with the seal determined to be intact upon arrival at the point of destination;

(2) The swine must never have been commingled with swine that were in a region at a time when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist;

(3) No equipment or materials used in transporting the swine may have previously been used for transporting swine that do not meet the requirements of this section, unless the equipment or materials have first been cleaned and disinfected; and

(4) The swine must be accompanied by a certificate issued by a salaried veterinary officer of the national government of the country of origin, stating that the provisions of paragraphs (b)(1) through (b)(3) of this section have been met.[20]

(c) The certificates required by paragraphs (a)(3) and (b)(4) of this section must be presented by the importer to the appropriate Customs and Border Protection officer at the port of arrival, upon arrival of the swine, pork, or pork products at the port, for the use of the veterinary inspector at the port of entry.

(Approved by the Office of Management and Budget under control number 0579–0218)

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

■ 18. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 98.15 [Amended]

■ 19. Section 98.15 is amended by removing the words ''hog cholera'' and adding in their place the words ''classical swine fever'' in the following places:

■ a. Paragraph (a)(1)(ii).
■ b. Paragraph (a)(2)(ii).
■ c. Paragraph (a)(5)(ii)(B)
■ d. Paragraph (a)(7)(i)(B).
■ e. Paragraph (a)(8)(i)(B).

§ 98.34 [Amended]

■ 20. Section 98.34 is amended as follows:

■ a. By removing the words ''hog cholera'' and adding in their place the words ''classical swine fever'' in the following places:

■ i. Paragraph (c)(7)(ii).
■ ii. Concluding text of paragraph (c)(7)(iii) (following paragraph (c)(7)(iii)(G)).

■ b. In paragraph (c)(7)(iii)(D), by removing the words ''Hog cholera'' and adding in their place the words ''Classical swine fever''.

■ 21. A new § 98.38 is added to read as follows:

§ 98.38 Restrictions on the importation of swine semen from parts of the European Union.

In addition to meeting all other applicable provisions of this part, swine semen imported from the region of the European Union consisting of Austria, Belgium, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenberg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Prüm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsrücke, the Kreis Südliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt); Greece, Italy (except for the Regions of Emilia-Romagna, Piemonte, and Sardegna), the Netherlands, and Portugal must meet the following conditions:

(a) The semen must come only from a semen collection center approved for export by the veterinary services of the national government of the country of origin;

(b) The donor boar must not have lived in a region when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist, and must not have transited such a region unless moved directly through the region in a sealed means of conveyance with the seal determined to be intact upon arrival at the point of destination;

(c) The donor boar must never have been commingled with swine that have been in a region when the region was classified in § 94.10(a) as one in which classical swine fever is known to exist;

(d) The donor boar must be held in isolation for at least 30 days prior to entering the semen collection center;

(e) No more than 30 days prior to being held in isolation as required by paragraph (d) of this section, the donor boar must be tested with negative results with a classical swine fever test approved by the Office International des Epizooties;

(f) No equipment or materials used in transporting the donor boar from the farm of origin to the semen collection center may have been used previously for transporting swine that do not meet the requirements of this section, unless such equipment or materials has first been cleaned and disinfected;

(g) The donor boar must be observed at the semen collection center by the center veterinarian, and exhibit no clinical signs of classical swine fever;

(h) Before the semen is exported to the United States, the donor boar must be held at the semen collection center for at least 40 days following collection of the semen, and, along with all other swine at the semen collection center, exhibit no clinical signs of classical swine fever; and

(i) The semen must be accompanied to the United States by a certificate issued by a salaried veterinary officer of the national government of the country of origin, stating that the provisions of paragraphs (a) through (h) of this section have been met.[3]

(Approved by the Office of Management and Budget under control number 0579–0218)

PART 130—USER FEES

■ 22. The authority citation for part 130 continues to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

§ 130.14 [Amended]

■ 23. In § 130.14, paragraph (b), the table is amended in the column titled ''Test'' by removing the words ''(hog cholera)'' in the entry for Fluorescent antibody neutralization and adding in their place the words ''(classical swine fever)''.

■ 24. In § 130.18, paragraph (b), the table is amended by removing the entry for Hog Cholera tissue sets and adding a new entry in alphabetical order to read as follows:

§ 130.18 User fees for veterinary diagnostic reagents produced at NVSL or other authorized site (excluding FADDL).

* * * * *

(b) * * *

[20] The certification required may be placed on the certificate required by § 93.505(a) of this chapter or may be contained in a separate document.

[3] The certification required may be placed on the certificate required under § 98.35(c) or may be contained in a separate document.

Reagent	User fee	Unit
* * * * * *		
Classical swine fever tissue sets	81.50	Tissue set.
* * * * * *		

* * * * *

Done in Washington, DC, this 2nd day of April 2003.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 03–8314 Filed 4–2–03; 3:00 pm]

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150–189	(869–048–00153–1)	47.00	July 1, 2002
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260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–048–00157–3)	43.00	July 1, 2002
400–424	(869–048–00158–1)	54.00	July 1, 2002
425–699	(869–048–00159–0)	59.00	July 1, 2002
700–789	(869–048–00160–3)	58.00	July 1, 2002
790–End	(869–048–00161–1)	45.00	July 1, 2002
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–048–00162–0)	23.00	July 1, 2002
101	(869–048–00163–8)	43.00	July 1, 2002
102–200	(869–048–00164–6)	41.00	July 1, 2002
201–End	(869–048–00165–4)	24.00	July 1, 2002
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–048–00167–1)	59.00	Oct. 1, 2002
430–End	(869–048–00168–9)	61.00	Oct. 1, 2002
43 Parts:			
1–999	(869–048–00169–7)	47.00	Oct. 1, 2002
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–048–00171–9)	47.00	Oct. 1, 2002
45 Parts:			
1–199	(869–048–00172–7)	57.00	Oct. 1, 2002
200–499	(869–048–00173–5)	31.00	[9]Oct. 1, 2002
500–1199	(869–048–00174–3)	47.00	Oct. 1, 2002
1200–End	(869–048–00175–1)	57.00	Oct. 1, 2002
46 Parts:			
1–40	(869–048–00176–0)	44.00	Oct. 1, 2002
41–69	(869–048–00177–8)	37.00	Oct. 1, 2002
70–89	(869–048–00178–6)	14.00	Oct. 1, 2002
90–139	(869–048–00179–4)	42.00	Oct. 1, 2002
140–155	(869–048–00180–8)	24.00	[9]Oct. 1, 2002
156–165	(869–048–00181–6)	31.00	[9]Oct. 1, 2002
166–199	(869–048–00182–4)	44.00	Oct. 1, 2002
200–499	(869–048–00183–2)	37.00	Oct. 1, 2002
500–End	(869–048–00184–1)	24.00	Oct. 1, 2002
47 Parts:			
0–19	(869–048–00185–9)	57.00	Oct. 1, 2002
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–048–00187–5)	36.00	Oct. 1, 2002
70–79	(869–048–00188–3)	58.00	Oct. 1, 2002
80–End	(869–048–00189–1)	57.00	Oct. 1, 2002
48 Chapters:			
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1 (Parts 52–99)	(869–048–00191–3)	47.00	Oct. 1, 2002
2 (Parts 201–299)	(869–048–00192–1)	53.00	Oct. 1, 2002
3–6	(869–048–00193–0)	30.00	Oct. 1, 2002
7–14	(869–048–00194–8)	47.00	Oct. 1, 2002
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29–End	(869–048–00196–4)	38.00	[9]Oct. 1, 2002
49 Parts:			
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100–185	(869–048–00198–1)	60.00	Oct. 1, 2002
186–199	(869–048–00199–9)	18.00	Oct. 1, 2002
200–399	(869–048–00200–6)	61.00	Oct. 1, 2002
400–999	(869–048–00201–4)	61.00	Oct. 1, 2002
1000–1199	(869–048–00202–2)	25.00	Oct. 1, 2002

Title	Stock Number	Price	Revision Date
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50 Parts:			
1–17	(869–048–00204–9)	60.00	Oct. 1, 2002
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2001, through April 1, 2002. The CFR volume issued as of April 1, 2001 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.